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Contents

Federal Register

Vol. 90, No. 94

Friday, May 16, 2025

Agriculture Department

See Food and Nutrition Service

See Forest Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 20997

Army Department

NOTICES

Environmental Impact Statements; Availability, etc.:

Army Training Land Retention at Kahuku Training Area, Kawaihoa-Poamoho Training Area, and Makua Military Reservation, Island of O'ahu, HI, 21014–21015

Bureau of Consumer Financial Protection

RULES

Protections for Borrowers Affected by the COVID–19 Emergency under the Real Estate Settlement Procedures Act, Regulation X; Rescission, 20791–20795

Centers for Medicare & Medicaid Services

RULES

Medicare and Medicaid Programs:

Calendar Year 2025 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; etc.; and Appeal Rights for Certain Changes in Patient Status; Corrections and Correcting Amendment, 20801–20808

NOTICES

Medicare and Medicaid Programs:

Quarterly Listing of Program Issuances—January through March 2025, 21043–21049

Medicare Program:

Deeming Authority of the Utilization Review Accreditation Commission for Medicare Advantage Health Maintenance Organizations and Preferred Provider Organizations, 21041–21043

Request for Information:

Health Technology Ecosystem, 21034–21041

Central Intelligence Agency

NOTICES

Decennial Review of Operational Files Designations, 20999

Coast Guard

RULES

Special Local Regulation:

East River, Mathews, VA, 20797–20799

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 21056

Commerce Department

See Industry and Security Bureau

See International Trade Administration

See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled

NOTICES

Procurement List; Additions and Deletions, 21012–21014

Copyright Royalty Board

PROPOSED RULES

Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies to Facilitate Those Performances (Web VI), 20977–20985

Defense Department

See Army Department

See Engineers Corps

Education Department

NOTICES

Applications for New Awards:

Expanding Opportunity through Quality Charter Schools Program—Grants for Credit Enhancement for Charter School Facilities, 21016–21021

Expanding Opportunity through Quality Charter Schools Program—Model Development and Dissemination Grants, 21021–21027

Election Assistance Commission

NOTICES

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

Budget Expenditures Worksheet, 21028–21029

Federal Financial Report, 21027–21028

Energy Department

See Southwestern Power Administration

RULES

Amending the Administrative Procedures with Respect to the Import and Export of Natural Gas, 20758–20761

Application for Presidential Permit Authorizing the Construction, Connection, Operation, and Maintenance of Facilities for Transmission of Electric Energy at International Boundaries, 20753–20755

Collection of Information under the Energy Supply and Environmental Coordination Act, 20755–20758

Nondiscrimination on the Basis of Sex in Sports Programs Arising out of Federal Financial Assistance, 20786–20788

Procedures for Acquisition of Petroleum for the Strategic Petroleum Reserve, 20764–20766

Rescinding New Construction Requirements Related to Nondiscrimination in Federally Assisted Programs or Activities, 20783–20786

Rescinding Obsolete Financial Assistance Rules, 20761–20764

Rescinding Obsolete Transfer of Proceedings Regulations, 20772–20774

Rescinding Regulations for Loans for Minority Business Enterprises Seeking Department of Energy Contracts and Assistance, 20769–20772

Rescinding Regulations Related to Nondiscrimination in Federally Assisted Programs or Activities (General Provisions), 20777–20783

Rescinding Regulations Related to Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 20788–20791

Revisions to the Office of Hearings and Appeals Procedural Regulations, 20774–20777

Revisions to the Office of Hearings and Appeals Procedural Regulations for the Contractor Employee Protection Program, 20766–20769

PROPOSED RULES

Application for Authorization to Transmit Electric Energy to a Foreign Country, 20826–20828

Compliance with Floodplain and Wetland Environmental Review Requirements, 20947–20949

Energy Conservation Program:

- Exempt Power Supplies under the EPS Service Parts Act, 20831–20835
- Proposed Withdrawal of Determination of Air Cleaners as a Covered Consumer Product, 20835–20840
- Proposed Withdrawal of Determination of Fans and Blowers as Covered Equipment, 20930–20935
- Rescinding in Part the Amended Standards for Dehumidifiers, 20864–20868
- Rescinding the Amended Water Conservation Standards for Commercial Clothes Washers, 20925–20930
- Rescinding the Efficiency Standards for Battery Chargers, 20868–20873
- Standards for Automatic Commercial Ice Makers, 20919–20925
- Standards for Commercial Prerinse Spray Valves, 20935–20939
- Standards for Compact Residential Clothes Washers, 20905–20909
- Standards for Consumer Furnace Fans, 20873–20876
- Standards for Conventional Cooking Tops, 20881–20885
- Standards for Conventional Ovens, 20885–20890
- Standards for External Power Supplies, 20899–20904
- Standards for Faucets, 20854–20859
- Standards for Microwave Ovens, 20895–20899
- Standards for Residential Clothes Washers, 20890–20895
- Test Procedures for Commercial Warm Air Furnaces, 20909–20915
- Test Procedures for Small Electric Motors, 20915–20919
- Withdrawal of Determination of Compressors as a Covered Equipment, 20849–20854
- Withdrawal of Determination of Miscellaneous Refrigeration Products as a Covered Consumer Product, 20840–20849
- Withdrawal of Determination of Portable Air Conditioners as a Covered Consumer Product, 20876–20881

Renewable Energy Production Incentives, 20939–20942

Rescinding Regulations Related to Nondiscrimination in Federally Assisted Programs or Activities (Nondiscrimination on the Basis of Age), 20949–20952

Rescinding Reporting Requirements, Certification, Independent Verification, and DOE Review for Voluntary Greenhouse Gas Reporting, 20828–20831

Rescinding the Amended Water Use Standards for Residential Dishwashers, 20859–20864

Rescinding the Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions Regulations, 20945–20947

Rescinding the Production Incentives for Cellulosic Biofuels, 20942–20944

Engineers Corps

NOTICES

Environmental Impact Statements; Availability, etc.:
Operation and Maintenance of the Willamette Valley System, 21015–21016

Environmental Protection Agency

PROPOSED RULES

State Coal Combustion Residuals Permit Program:
North Dakota; Approval, 20985–20996

NOTICES

Environmental Impact Statements; Availability, etc., 21031–21032

Hearings, Meetings, Proceedings, etc.:
Ozone Transport Commission and the Mid-Atlantic Northeast Visibility Union, 21030

Proposed Settlement Agreement, Stipulation, Order, and Judgment, etc.:
CERCLA; Mohawk Tannery Site, Located in Nashua, NH, 21030–21031

Federal Aviation Administration

RULES

Airspace Designations and Reporting Points:
Vicinity of Bradford, IL, 20795–20797

PROPOSED RULES

Airworthiness Directives:
Airbus SAS Airplanes, 20952–20956

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Organization Designation Authorization, 21104–21105

Federal Highway Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 21106–21107

Final State Agency Action:
Proposed Transportation Project in Arizona, 21105–21106

Federal Railroad Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 21107–21109

Federal Reserve System

NOTICES

Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 21032

Federal Trade Commission

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 21032–21034

Food and Nutrition Service

PROPOSED RULES

Supplemental Nutrition Assistance Program:
Revision of Civil Rights Data Collection Methods;
Recission, 20825–20826

Foreign Assets Control Office

NOTICES

Sanctions Action, 21120–21125

Forest Service

NOTICES

Environmental Impact Statements; Availability, etc.:
Waterville Valley Resort, Pemigewasset Ranger District,
White Mountain National Forest, Grafton County NH,
20997–20999

Health and Human Services Department

See Centers for Medicare & Medicaid Services

See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
The Stem Cell Therapeutic Outcomes Database, 21049–21051
The Teaching Health Center Graduate Medical Education Program Reconciliation Tool, 21051–21052

Homeland Security Department

See Coast Guard

See U.S. Citizenship and Immigration Services

Housing and Urban Development Department

NOTICES

Privacy Act; Systems of Records, 21057–21059

Indian Affairs Bureau

NOTICES

Helping Expedite and Advance Responsible Tribal Homeownership Act Approval:
Choctaw Nation of Oklahoma Leasing Ordinance, 21060–21061

Industry and Security Bureau

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Chemical Weapons Convention Declaration and Report Handbook and Forms and Chemical Weapons Convention Regulations, 21000

Interior Department

See Indian Affairs Bureau

See National Park Service

See Reclamation Bureau

See Surface Mining Reclamation and Enforcement Office

RULES

Joint Policies of the Departments of the Interior and of the Army Relative to Reservoir Project Lands, 20808–20809

Internal Revenue Service

PROPOSED RULES

Previously Taxed Earnings and Profits and Related Basis Adjustments, 20977

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Claim for Refund of Income Tax Return Preparer Penalties, 21127–21128
Reporting of Health Insurance Coverage, 21128
Tests for Determining whether an Obligation is Principally Secured, 21128–21129
Superfund Tax on Chemical Substances:
Modification to List of Taxable Substances; Di-IsoNonyl Adipate, 21131
Modification to List of Taxable Substances; Di-isopropyl Ether, 21126
Modification to List of Taxable Substances; Isodecyl Alcohol, 21129–21130
Modification to List of Taxable Substances; IsoDecyl Benzoate, 21130–21131
Modification to List of Taxable Substances; Isooctyl Alcohol, 21126–21127
Modification to List of Taxable Substances; Linear Nonyl Tri-Mellitate, 21125–21126

International Trade Administration

NOTICES

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Cold-Rolled Steel Flat Products from the Republic of Korea, 21010–21011
Certain Corrosion-Resistant Steel Products from the Republic of Korea, 21002–21004
Certain Frozen Warmwater Shrimp from India, 21004–21008
Erythritol from the People's Republic of China, 21000–21002
Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, 21008–21010

International Trade Commission

NOTICES

Investigations; Determinations, Modifications, and Rulings, etc.:
Ferrosilicon from Brazil, Kazakhstan, and Malaysia, 21078
Multifunctional Acrylate and Methacrylate Monomers and Oligomers from South Korea and Taiwan, 21077–21078

Labor Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Notice of Employee Rights under National Labor Relations Act Complaint Process, 21078–21079

Library of Congress

See Copyright Royalty Board

National Endowment for the Arts

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2025 Final Descriptive Report Update, 21080

National Foundation on the Arts and the Humanities

See National Endowment for the Arts

National Highway Traffic Safety Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Crash Avoidance Warning System Human-Machine Interface Research, 21113–21115
Drivers' Use of Camera-Based Rear Visibility Systems versus Traditional Mirrors, 21109–21112
Petition for Decision of Inconsequential Noncompliance:
Goodyear Tire and Rubber Co., 21118–21119
Mercedes-Benz AG, Mercedes-Benz USA, LLC, and Daimler Vans USA, LLC, 21115–21117

National Institutes of Health

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Customer Service, Demographic, and Smoking/Tobacco Use Information from the National Cancer Institute's Cancer Information Service, 21055–21056
Hearings, Meetings, Proceedings, etc.:
National Human Genome Research Institute, 21052
National Institute of Allergy and Infectious Diseases, 21053

National Institute of Arthritis and Musculoskeletal and Skin Diseases, 21053
National Institute of Diabetes and Digestive and Kidney Diseases, 21052–21053
National Institute on Minority Health and Health Disparities; Cancellation, 21054
Office of the Director, 21052, 21054–21055
Licenses; Exemptions, Applications, Amendments, etc.:
C-Abl Tyrosine Kinase Inhibitory Compound Embodiments and Methods of Making and Using the Same, 21054

National Oceanic and Atmospheric Administration

RULES

Fisheries of the South Atlantic:
2025 Recreational Fishing Season Announcement and Closure for Blueline Tilefish in the South Atlantic, 20809–20810
Fisheries off West Coast States:
West Coast Salmon Fisheries; 2025 Specifications and Management Measures, 20810–20824
Taking or Importing of Marine Mammals:
Pacific Islands Fisheries Science Center Fisheries Research, 21134–21179

NOTICES

Taking or Importing of Marine Mammals:
Ice Road and Ice Trail Construction, Operation, and Maintenance Activities on Alaska's North Slope, 21011–21012
Narwhal, LLC Oil and Gas Exploration Activities in West Harrison Bay, AK, 21182–21214

National Park Service

NOTICES

Intended Disposition:
U.S. Department of the Interior, National Park Service, Rock Creek Park, Washington, DC, 21070–21071
Inventory Completion:
California State University, Chico, Chico, CA, 21061–21062
David A. Fredrickson Archaeological Collections Facility, Sonoma State University, Rohnert Park, CA, 21069–21070
Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, 21073–21074
South Carolina Institute of Archaeology and Anthropology, Columbia, SC; South Carolina Department of Parks, Recreation, and Tourism, Columbia, SC; et al., 21065–21069
U.S. Department of Energy, Idaho Operations Office, Idaho Falls, ID, 21065
U.S. Department of the Interior, Bureau of Land Management, Arizona State Office, Phoenix, AZ, 21064–21065, 21072–21073
University of Illinois Urbana-Champaign, Champaign, IL, 21062
Repatriation of Cultural Items:
Field Museum, Chicago, IL, 21061
Institute for American Indian Studies, Washington, CT, 21074–21075
Oakland Museum of California, Oakland, CA, 21062–21063
Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, 21063–21064
Ralph T Coe Center for the Arts, Santa Fe, NM, 21071–21072

Nuclear Regulatory Commission

NOTICES

Environmental Impact Statements; Availability, etc.:
Dominion Energy South Carolina, Inc.; Virgil C. Summer Nuclear Station, Unit 1, 21082–21083
Hearings, Meetings, Proceedings, etc.:
Advisory Committee on Reactor Safeguards, 21081–21082
Meetings; Sunshine Act, 21081
Permits; Applications, Issuances, etc.:
Long Mott Energy, LLC; Long Mott Generating Station, 21080–21081

Pension Benefit Guaranty Corporation

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Coverage Determination Form, 21083–21084
Multiemployer Plan Regulations, 21084–21085

Postal Regulatory Commission

NOTICES

Complaint, 21085–21086
New Postal Products, 21086

Postal Service

RULES

Optional 5-Digit/3-Digit/ADC Sortation, 20799–20801

NOTICES

Change in Rates and Classifications of General Applicability for Competitive Products, 21087–21088

Reclamation Bureau

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Lower Colorado River Well Inventory, 21075

Securities and Exchange Commission

NOTICES

Application:
CAIS Sports, Media and Entertainment Fund and CAIS Advisors LLC, 21098–21099
MSD Investment Corp., et al., 21088
T. Rowe Price OHA Select Private Credit Fund, et al., 21099
The Advisors' Inner Circle Fund III and FS Fund Advisor, LLC, 21100
Self-Regulatory Organizations; Proposed Rule Changes:
Fixed Income Clearing Corp., 21092–21094
MEMX LLC, 21094–21098
MIAX PEARL, LLC, 21088–21092

Small Business Administration

NOTICES

Disaster Declaration:
Oklahoma, 21100

Southwestern Power Administration

NOTICES

Robert D. Willis Power Rate, 21029–21030

State Department

NOTICES

Hearings, Meetings, Proceedings, etc.:
Shipping Coordinating Committee, Preparation for International Maritime Organization Maritime Safety Committee 110, 21100–21101

Surface Mining Reclamation and Enforcement Office**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, 21076
Requirements for Permits and Permit Processing, 21076–21077

Surface Transportation Board**NOTICES**

Exemption:

Control; 3i RR Holdings GP LLC, 3i RR Holdings Partnership LP, et al., Minnesota Commercial Railway Co., 21103–21104
Control; Star America Fund II G, LLC, Star America Rail Holdco, LLC, Belpre Industrial Parkersburg Railroad, LLC, Bucyrus Industrial Railroad, LLC, et al., 21101–21102
Lease with Interchange Commitment; Kaw River Railroad, LLC, BNSF Railway Co., 21102–21103
Temporary Trackage Rights; Union Pacific Railroad Co., BNSF Railway Co., 21104
Release of Waybill Data, 21102

Transportation Department

See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration

PROPOSED RULES

Administrative Rulemaking, Guidance, and Enforcement Procedures, 20956–20976

NOTICES

Charter Amendments, Establishments, Renewals and Terminations:
U.S. Department of Transportation Advisory Board; Requests for Nominations, 21119–21120

Treasury Department

See Foreign Assets Control Office
See Internal Revenue Service

U.S. Citizenship and Immigration Services**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Notice of Naturalization Oath Ceremony, 21056–21057

Separate Parts In This Issue**Part II**

Commerce Department, National Oceanic and Atmospheric Administration, 21134–21179

Part III

Commerce Department, National Oceanic and Atmospheric Administration, 21182–21214

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR**Proposed Rules:**

272.....20825

10 CFR

205.....20753

207.....20755

590.....20758

600.....20761

626.....20764

708.....20766

800.....20769

1000.....20772

1003.....20774

1040 (2 documents) 20777,

20783

1042 (2 documents) 20786,

20788

Proposed Rules:

205.....20826

300.....20828

429 (4 documents) 20831,

20835, 20840, 20849

430 (14 documents) 20835,

20840, 20854, 20859, 20864,

20868, 20873, 20876, 20881,

20885, 20890, 20895, 20899,

20905

431 (7 documents) 20849,

20909, 20915, 20919, 20925,

20930, 20935

451.....20939

452.....20942

455.....20945

1022.....20947

1040.....20949

12 CFR

1024.....20791

14 CFR

71.....20795

Proposed Rules:

39.....20952

300.....20956

302.....20956

399.....20956

26 CFR**Proposed Rules:**

1.....20977

33 CFR

100.....20797

37 CFR**Proposed Rules:**

380 (2 documents) 20977,

20982

39 CFR

111.....20799

40 CFR**Proposed Rules:**

257.....20985

42 CFR

401.....20801

405.....20801

410.....20801

411.....20801

414.....20801

423.....20801

424.....20801

425.....20801

427.....20801

428.....20801

491.....20801

43 CFR

8.....20808

49 CFR**Proposed Rules:**

1.....20956

5.....20956

7.....20956

106.....20956

389.....20956

553.....20956

601.....20956

50 CFR

219.....21134

622.....20809

660.....20810

Rules and Regulations

Federal Register

Vol. 90, No. 94

Friday, May 16, 2025

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

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DEPARTMENT OF ENERGY

10 CFR Part 205

[DOE-HQ-2025-0011]

RIN 1901-AB68

Application for Presidential Permit Authorizing the Construction, Connection, Operation, and Maintenance of Facilities for Transmission of Electric Energy at International Boundaries

AGENCY: Department of Energy (DOE); Grid Deployment Office.

ACTION: Direct final rule (“DFR”); request for comments.

SUMMARY: This DFR rescinds regulations regarding the applications for a presidential permit authorizing construction, connection, operation, and maintenance of facilities for transmission of electric energy at international boundaries.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE-HQ-2025-0011. Follow the instructions for submitting comments. The docket for this final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in

the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0011. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

DOE is rescinding the application process codified in 10 CFR 205.320 through 10 CFR 205.329. Authority for these sections can be found at E.O. 10485 as amended by E.O. 12038. Extensive regulations established in response to these EOs impose economic, administrative and procedural burdens on applicants. Such burdens impede private enterprise and entrepreneurship and run contrary to the President’s goal of unleashing American energy. E.O. 14154.

Further, Executive Order 14192 Unleashing Prosperity Through Deregulation explicitly makes it “the policy of the executive branch . . . to alleviate unnecessary regulatory burdens placed on the American people.” Such burdens “are often difficult for the average person or business to understand, as they require synthesizing the collective meaning not just of formal regulations but also rules, memoranda, administrative orders, guidance documents, policy statements, and interagency agreements that are not subject to the Administrative Procedure Act, further increasing compliance costs and the risk of costs of non-compliance.” *Id.* The Secretary is therefore proposing to reduce regulatory burden wherever possible.

Additionally, as the authority for the aforementioned sections rests in Executive Order, it is at the discretion of the Executive branch as to how the order is applied.

Accordingly, DOE removes the aforementioned sections from regulation to reduce burden and remove out of date requirements while simultaneously bolstering American energy dominance by reducing barriers in the construction of facilities on the border. The rule rescission should help increase exports and subsequently the reliance of foreign nations on American energy. DOE seeks comment on all aspects of the rule, including but not limited to the prior rule’s consistency with statutory authority and the Constitution, national security, whether the prior rules are out of date, the prior rule’s costs and benefits, and the prior rule’s effect on small business, entrepreneurship and private enterprise.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory

approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. For the reasons set forth herein, this regulatory action is consistent with these principles.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed the amendment under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rule eliminates requirements. Therefore, DOE concludes that the impacts thereof would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This amendment imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion for rulemakings that are strictly procedural. See 10 CFR part 1021, subpart D, appendix A6. DOE has determined that this rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this amendment and has determined that it would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to

ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this amendment according to UMRA and its statement of policy and determined that the amendment does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of

\$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this amendment would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this amendment under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined

as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rulemaking and has determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,”; E.O. 14219 “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rule is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date.

III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comments.

List of Subjects in 10 CFR Part 205

Administrative practice and procedure, Electric power, Electric utilities, Energy, Environmental protection, Exports, Foreign relations.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in

compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025
Treena V. Garrett,
Federal Register Liaison Officer, U.S.
Department of Energy.

For the reasons in the preamble, DOE amends part 205 of chapter II, title 10 of the Code of Federal Regulations, as set forth:

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

■ 1. The authority-citation for part 205 continues to read as follows:

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159; Federal Energy Administration Act of 1974, Pub. L. 93–275 (88 Stat. 96; E.O. 11790, 39 FR 23185); 42 U.S.C. 7101 *et seq.*, unless otherwise noted. Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101); Pub. L. 66–280, 41 Stat. 1063 (16 U.S.C. 792 *et seq.*); E.O. 10485, 18 FR 5397, 3 CFR, 1949–1953, Comp., p. 970 as amended by E.O. 12038, 43 FR 4957, 3 CFR 1978 Comp., p. 136; Department of Energy Delegation Order No. 00–002.00Q (Nov. 1, 2018).

§§ 205.320 through 205.329 [Removed and Reserved]

■ 2. Remove the undesignated center heading “Application for Presidential Permit Authorizing the Construction, Connection, Operation, and Maintenance of Facilities for Transmission of Electric Energy at International Boundaries” above § 205.320, and remove and reserve §§ 205.320 through 205.329.

[FR Doc. 2025–08539 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 207

[EERE–2025–OT–0033]

RIN 1904–AG04

Collection of Information Under the Energy Supply and Environmental Coordination Act of 1974

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Direct final rule (“DFR”); request for comments.

SUMMARY: This DFR amends existing provisions by amending regulations regarding the collection of information under the Energy Supply and Environmental Coordination Act of 1974.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE-2025-OT-0033. Follow the instructions for submitting comments. The docket for this final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/EERE-2025-OT-0033. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969

- E. Review Under Executive Order 13132
- F. Review Under Executive Order 12988
- G. Review Under the Unfunded Mandates Reform Act
- H. Review Under the Treasury and General Government Appropriations Act, 1999
- I. Review Under Executive Order 12630
- J. Review Under the Treasury and General Government Appropriations Act, 2001
- K. Review Under Executive Order 13211
- L. Review Under Additional Executive Orders and Presidential Memoranda
- M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

DOE is rescinding CFR provisions directed to the Collection of Information Under the Energy Supply and Environmental Coordination Act of 1974 (ESECA), codified in 10 CFR part 207, subpart A. ESECA, as codified, aimed to meet the Nation's then growing energy crisis and includes detailed provisions as to the collection of energy information and the development of corresponding reports. Aside from obvious and unnecessary additions as to the format of reports in 10 CFR part 207, the provisions of the ESECA in 15 U.S.C. 796 are largely recycled and repeated in 10 CFR part 207, subpart A, at least in §§ 207.2 and 207.3. Therefore, these superfluous sections are unnecessary and merely enlarge an already bloated CFR.

Accordingly, DOE amends 10 CFR part 207, subpart A by removing §§ 207.2 and 207.3 and clarifying §§ 207.1 and 207.5 in line with such a removal. DOE seeks comment on all aspects of that amendment, including but not limited to the prior rule's consistency with statutory authority and the Constitution and whether the prior rules are out of date.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order ("E.O.") 12866, "Regulatory Planning and Review," requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or

manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis ("IRFA") and a final regulatory flexibility analysis ("FRFA") for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (www.energy.gov/gc/office-general-counsel). DOE reviewed the amendment under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003.

DOE reviewed this amendment under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rule eliminates regulations recycled from statute. Therefore, DOE concludes that the impacts of the amendment would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This amendment imposes no new information or record-keeping requirements. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended ("NEPA"), and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A5, because it is an interpretive rulemaking that does not change the environmental effect of the rule.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this amendment and has determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any,

(2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA") requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this amendment according to UMRA and its statement of policy and determined that the amendment does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in

the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), DOE has determined that this amendment would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this amendment under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA) at OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action

by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,”; E.O. 14219 “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rule is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this direct final rule prior to its effective date.

III. Approval of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comments.

List of Subjects in 10 CFR Part 207

Administrative practice and procedure, Energy, Penalties.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register

Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE amends part 207 of chapter II, subchapter A, as follows:

PART 207—COLLECTION OF INFORMATION

- 1. The authority for part 207 continues to read as follows:

Authority: 15 U.S.C. 787 *et seq.*; 15 U.S.C. 791 *et seq.*; E.O. 11790, 39 FR 23185; 28 U.S.C. 2461 note.

- 2. Revise § 207.1 to read as follows:

§ 207.1 Purpose.

The purpose of this subpart is to set forth the manner of enforcement regarding the collection of energy information which the Administrator is authorized to obtain by sections 11 (a) and (b) of ESECA.

§§ 207.3 and 207.4 [Removed and Reserved]

- 3. Remove and reserve §§ 207.3 and 207.4.

- 4. Revise § 207.5 to read as follows:

§ 207.5 Violations.

Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements outlined in the ESECA or any order issued pursuant thereto is a violation of the DOE regulations stated in this subpart.

[FR Doc. 2025–08538 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 590

[DOE–HQ–2025–0010]

RIN 1901–AB67

Amending the Administrative Procedures With Respect to the Import and Export of Natural Gas

AGENCY: Department of Energy (DOE); Fossil Energy.

ACTION: Direct final rule (DFR); request for comments.

SUMMARY: This DFR amends the regulations for the administrative procedures with respect to the import and export of natural gas to update and streamline the general requirements for filing documents with the Office of Fossil Energy (FE). Specifically, this change is made to remove references to offices that no longer exist, allow for the submission of documents online, allow for electronic service, update filing fee instructions, and remove the unnecessary and burdensome requirement that applicants submit multiple copies of applications, filings, and submittals.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0010. Follow the instructions for submitting comments. The docket for this final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0010. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
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 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

DOE is amending Part 590 of Title 10, Code of Federal Regulations by this direct final rule. Part 590 contains rules that govern the administrative procedures with respect to the import and export of natural gas. On July 25, 2018, DOE amended the Part 590 regulations for the first time since being promulgated by DOE in 1989. See 83 FR 35106. DOE now amends the Part 590 regulations again to remove antiquated references and update submission processes to reduce the burden on the public. Notably, DOE is moving the general requirements for filing documents with FE to FE's website (<https://www.energy.gov/fe/regulation>). Doing so allows FE to update filing instructions to increase accuracy and decrease unnecessary burdens on the public. For example, the regulations as currently written require parties to submit "an original and fifteen (15) copies of all applications, filings and submittals" to FE. See § 590.103(a). This may have been an appropriate and reasonable requirement when the regulations were first promulgated in 1989, but this requirement does not serve any legitimate purpose today and only serves to create an unnecessary burden on the public. The regulations also currently require parties to physically file documents to the "Office of Fuels Program" (see § 590.104), an office that no longer exists. Additionally, the regulations as currently written do not contemplate submission, inspection, or service of documents through electronic means. See, e.g., §§ 590.103(a), 590.104, 590.106, 590.107(c), 590.107(e). Finally, the regulations as currently written are inaccurate with respect to the payment of filing fees (see § 590.207) since

checks are no longer accepted and filing fees must be submitted electronically. DOE is updating these antiquated aspects of the regulation to bring the process into the 21st century.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis ("IRFA") and a final regulatory flexibility analysis ("FRFA") for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this amendment under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19,

2003. This direct final rule streamlines and eliminates regulations. Therefore, DOE initially concludes that the impacts of the amendment would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This amendment imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, ("NEPA") and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for rulemakings that are strictly procedural. See 10 CFR part 1021, subpart D, appendix A6. DOE has determined that this rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," imposes

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

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

G. Review Under the Unfunded Mandates Reform Act

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

March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), DOE has determined that this amendment would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this amendment

under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this amendment and has determined that it is consistent with the policies and directives outlined in E.O. 14154 "Unleashing American Energy," E.O. 14192, "Unleashing Prosperity Through Deregulation," and Presidential Memorandum, "Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis." This amendment is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date.

III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of direct final rule; and request for comment.

List of Subjects in 10 CFR Part 590

Administrative practice and procedure, Exports, Natural gas,

Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE amends part 590 of chapter II, subchapter G, of title 10 of the Code of Federal Regulations, as set forth below:

PART 590—ADMINISTRATIVE PROCEDURES WITH RESPECT TO THE IMPORT AND EXPORT OF NATURAL GAS

■ 1. The authority for part 590 continues to read as follows:

Authority: Secs. 301(b), 402(f), and 644, Pub. L. 95–91, 91 Stat. 578, 585, and 599 (42 U.S.C. 7151(b), 7172(f), and 7254), Sec. 3, Act of June 21, 1938, c. 556, 52 Stat. 822 (15 U.S.C. 717b); E.O. 12009 (42 FR 46267, September 15, 1977); DOE Delegation Order Nos. 0204–111 and 0204–127 (49 FR 6684, February 22, 1984; 54 FR 11437, March 20, 1989).

§ 590.103 [Amended]

■ 2. Amend § 590.103(a) by removing “under this part. Such document shall be considered officially filed with FE when it has been received and stamped with the time and date of receipt by the Office of Fuels Programs, FE. Documents transmitted to FE must be addressed as provided in § 590.104. All documents and exhibits become part of the record in the official FE docket file and will not be returned. An original and fifteen (15) copies of all applications, filings and submittals shall be provided to FE. No specific format is required. Applicants required to file quarterly reports as a condition to an authorization need only file an original and four (4) copies” and adding in its place “in accordance with the

instructions at FE’s website: <https://www.energy.gov/fe/regulation>”.

■ 3. Revise § 590.104 to read as follows:

§ 590.104 Address for filing documents.

Documents shall be filed in accordance with the instructions at FE’s website: <https://www.energy.gov/fe/regulation>.

§ 590.105 [Amended]

■ 4. Amend § 590.105(c) by removing “by the Office of Fuels Programs, FE,”.

§ 590.106 [Amended]

■ 5. Amend § 590.106 by removing “shall be available for inspection and copying by the public during regular business hours between 8 a.m. and 4:30 p.m. Dockets are located in the Office of Fuels Programs, FE, Docket Room 3F–056, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585” and adding in its place “are available online (<https://www.energy.gov/fe/articles/electronic-docket-room-e-docket-room>). Additional information about the contents of dockets and how to access them can be found here: <https://www.energy.gov/fe/regulation>”.

§ 590.107 [Amended]

■ 5. Amend § 590.107 by:

■ A. In paragraph (c), by adding “electronically (preferred),” after “may be served”.

■ B. In paragraph (e) by inserting “electronically (preferred),” after “on the parties by FE either”.

§ 590.108 [Amended]

■ 7. Amend § 590.108(a)(4) by removing “for Fuels Programs” after “Deputy Assistant Secretary”.

§ 590.202 [Amended]

■ 8. Amend § 590.202(a) by striking “a maximum of” before “two persons”.

§ 590.207 [Amended]

■ 9. Amend § 590.207 by removing “Checks shall be made payable to “Treasury of the United States”” and adding in its place “Instructions on submitting the filing fee can be found here: <https://www.energy.gov/fe/submitting-electronic-payment>”.

[FR Doc. 2025–08554 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 600

[DOE–HQ–2025–0017]

RIN 1991–AC20

Rescinding Obsolete Financial Assistance Rules

AGENCY: Office of Management, Department of Energy (DOE).

ACTION: Direct final rule (DFR); request for comments.

SUMMARY: This DFR rescinds the outdated Financial Assistance Rules.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0017. Follow the instructions for submitting comments.

Docket: The docket for this final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0017. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the final rule.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

DOE is rescinding part 600 of title 10, Code of Federal Regulations by this direct final rule. Part 600 contains rules that governed DOE financial assistance awards prior to December 26, 2014. Effective December 26, 2014, DOE adopted the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR parts 200 and 910. 79 FR 75871 (Dec. 19, 2014); *see also* 2 CFR 910.120. As a result, the regulations at 10 CFR part 600 are now obsolete. While the regulations may have had value some value as a point of reference for ongoing financial assistance awards made prior to December 26, 2014, any such value has diminished over the decade since these regulations were superseded. DOE therefore rescinds part 600 in its entirety.

II. Procedural Issues and Regulatory Review**A. Review Under Executive Orders 12866**

Executive Order (E.O.) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in

choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

For the reasons stated in the preamble, this direct final rule is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this direct final rule does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this direct final rule was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This DFR eliminates definitions that are not used in regulations. Therefore, DOE concludes that the impacts of the rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this

certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

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

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A5, because it is an interpretive rulemaking that does not change the environmental effect of the rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this rescission and has determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes

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

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

G. Review Under the Unfunded Mandates Reform Act

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

March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this rescission under

the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rescission and has determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rescission is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

III. Approval of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comment.

List of Subjects in 10 CFR Part 600

Accounting, Administrative practice and procedure, Colleges and universities, Government contracts, Grant programs, Hospitals, Indians, Intergovernmental relations, Loan programs, Lobbying, Nonprofit organizations, Penalties, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

For the reasons set forth in the preamble, DOE amends part 600 of chapter II, subchapter H, of title 10 of the Code of Federal Regulations, as set forth:

PART 600—FINANCIAL ASSISTANCE RULES

- 1. The authority citation for part 600 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*; 31 U.S.C. 6301–6308; 50 U.S.C. 2401 *et seq.*

PART 600—[Removed and Reserved]

- 2. Remove and reserve part 600.

[FR Doc. 2025–08568 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY**10 CFR Part 626**

[DOE–HQ–2025–0009]

RIN 1901–AB66

Procedures for Acquisition of Petroleum for the Strategic Petroleum Reserve

AGENCY: Office of Cybersecurity, Energy Security, and Emergency, Department of Energy (DOE).

ACTION: Direct final rule (DFR); request for comments.

SUMMARY: This DFR amends the regulations for the procedures for acquisition of petroleum for the Strategic Petroleum Reserve (SPR) to require index-priced contracts. This change is made to align DOE's processes with industry practice. Additionally, it restores the rule to its historical norm.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0009. Follow the instructions for submitting comments. The docket for this final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0009. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:**Table of Contents****I. General Discussion****II. Procedural Issues and Regulatory Review****A. Review Under Executive Orders 12866****B. Review Under the Regulatory Flexibility Act****C. Review Under the Paperwork Reduction Act****D. Review Under the National****Environmental Policy Act of 1969****E. Review Under Executive Order 13132****F. Review Under Executive Order 12988****G. Review Under the Unfunded Mandates Reform Act****H. Review Under the Treasury and General Government Appropriations Act, 1999****I. Review Under Executive Order 12630****J. Review Under the Treasury and General Government Appropriations Act, 2001****K. Review Under Executive Order 13211****L. Review Under Additional Executive Orders and Presidential Memoranda****M. Congressional Notification****III. Approval of the Secretary****I. General Discussion**

DOE is amending part 626 of title 10 of the Code of Federal Regulations by this direct final rule. Part 626 contains rules that govern the procedures for acquiring petroleum products for, and deferring contractually scheduled deliveries to, the SPR. On October 25, 2022, DOE amended the Part 626 regulations for the first time since being promulgated by DOE in 2006. See 87 FR 64369. The 2022 revisions were intended to provide more clarity, including by using more consistent language throughout the regulation; better reflect the underlying statutory authorities, which had changed since the rule's promulgation in 2006; better reflect the operational practices and realities of the SPR; and provide additional flexibility in structuring acquisitions, including by allowing fixed-price contracts. While most of these changes were sorely needed, the changes to permit the use of fixed-price contracts—added under claims of increased flexibility—have only served to unnecessarily create confusion in industry, which uses index-price contracts, with no recognizable benefit. For this reason, DOE amends the language contemplating fixed-price contracts to revert to the regulation's prior standard requiring index-price contracts.

II. Procedural Issues and Regulatory Review**A. Review Under Executive Orders 12866**

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking

into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this amendment under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003.

C. Review Under the Paperwork Reduction Act

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

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion for rulemakings that are strictly procedural. See 10 CFR

part 1021, subpart D, appendix A6. DOE has determined that this rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

F. Review Under Executive Order 12988

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

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required

review and determined that, to the extent permitted by law, this amendment meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this amendment would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this amendment under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA) at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. DOE will

assess the need for preparation of a Statement of Energy Effects under E.O. 13211.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this amendment and has determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This amendment is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date.

III. Approval of the Secretary

The Secretary of Energy has approved publication of this direct final rule; and request for comment.

List of Subjects in 10 CFR Part 626

Government contracts, Oil and gas reserves, Strategic and critical materials.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE amends part 626 of chapter II, subchapter I, of title 10 of the Code of Federal Regulations, as set forth below:

PART 626—PROCEDURES FOR ACQUISITION OF PETROLEUM FOR THE STRATEGIC PETROLEUM RESERVE

■ 1. The authority for part 626 continues to read as follows:

Authority: 42 U.S.C. 6240(c); 42 U.S.C. 7101, *et seq.*

§ 626.5 [Amended]

■ 2. Amend § 626.5(g)(2) through (4) by removing the word “may” and add in its place the word “shall”.

§ 626.6 [Amended]

■ 3. Amend § 626.6(a) by removing the words “competitive principles of the”.

[FR Doc. 2025–08536 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 708

[DOE–HQ–2025–00120012]

RIN 1910–AA56

Revisions to the Office of Hearings and Appeals Procedural Regulations for the DOE Contractor Employee Protection Program

AGENCY: Office of Hearings and Appeals, Department of Energy (DOE).

ACTION: Direct final rule (DFR); request for comments.

SUMMARY: This DFR rescinds an unnecessary regulation encouraging alternative dispute resolution to resolve complaints under the DOE Contractor Employee Protection Program.

DATES: The direct final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new direct final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–00120012. Follow the instructions for submitting comments. The docket for this direct final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is

available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-00120012. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

Docket: The docket for this rule, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-00120012. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section, “Public Participation,” for further information on how to submit comments through www.regulations.gov. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at www.regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001

- K. Review Under Executive Order 13211
- L. Review Under Additional Executive Orders and Presidential Memoranda
- M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

DOE is rescinding § 708.10 of title 10, Code of Federal Regulations by this direct final rule. This regulation contains a statement that encourages the use of alternative dispute resolution (ADR) for resolving complaints under the DOE Contractor Employee Protection Program. It does not confer any substantive right or obligation on the Agency or any party and is not required by statute. If DOE elects to encourage the use of ADR for resolving complaints under the DOE Contractor Employee Protection Program, then DOE can promulgate guidance doing so.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

For the reasons stated in the preamble, this direct final rule is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this direct final rule does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this direct final rule was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rescission eliminates a provision in regulations that creates no substantive right or obligation. Therefore, DOE initially concludes that the impacts of the rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

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

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion for rulemakings that are strictly procedural. See 10 CFR part 1021, subpart D, appendix A6. DOE has determined that this rulemaking qualifies for categorical exclusion A6

because it is a strictly procedural rulemaking.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

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

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations

in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rescission meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA") requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This

rescission would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), DOE has determined that this rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a direct final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rescission be implemented, and of

reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rescission is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

III. Approval of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comment.

List of Subjects in 10 CFR Part 708

Administrative practice and procedure, Whistleblowing.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of the Department of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

For the reasons set out in the preamble, the DOE amends title 10, Code of Federal Regulations, chapter III, part 708, as set forth below:

PART 708—DOE CONTRACTOR EMPLOYEE PROTECTION PROGRAM

■ 1. The authority citation for part 708 continues to read as follows:

Authority: 42 U.S.C. 2201(b), 2201(c), 2201(i), and 2201(p); 42 U.S.C. 5814 and 5815; 42 U.S.C. 7251, 7254, 7255, and 7256; and 5 U.S.C. Appendix 3.

§ 708.10 [Removed and Reserved]

■ 2. Remove and reserve § 708.10.

[FR Doc. 2025–08597 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 800

[DOE–HQ–2025–0014]

RIN 1903–AA23

Rescinding Regulations for Loans for Minority Business Enterprises Seeking DOE Contracts and Assistance

AGENCY: Office of Minority Economic Impact, Department of Energy (DOE).

ACTION: Direct final rule (DFR); request for comments.

SUMMARY: This DFR rescinds a regulation which sets forth policies and procedures for the award and administration of loans to minority business enterprises.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0014. Follow the instructions for submitting comments. The docket for this final rule, which includes **Federal Register**

notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0014. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at www.regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121.

Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

In *Students for Fair Admissions v. Harvard*, 600 U.S. 181, 230 (2023), the Supreme Court held that the admissions programs of Harvard and the University of North Carolina violated the Equal Protection Clause of the Fourteenth Amendment. Both institutions included race as an overt consideration in the admissions programs. *Id.* at 194–98. The programs were unconstitutional because they “lack[ed] sufficiently focused and measurable objectives warranting the use of race, unavoidably employ[ed] race in a negative manner, involve[d] racial stereotyping, and lack[ed] meaningful end points.” *Id.* at 230.

The Supreme Court was clear that “[e]liminating racial discrimination means eliminating all of it.” *Id.* at 206 (cleaned up). And the Equal Protection Clause applies “without regard to any differences of race, of color, or of nationality.” *Id.* (cleaned up). Thus, the Court has “time and again forcefully rejected the notion that government actors may intentionally allocate preference to those who may have little in common with one another but the color of their skin.” *Id.* at 220 (cleaned up).

The regulations at 10 CFR part 800 do exactly that, in violation of *Students for Fair Admissions* and numerous other Supreme Court cases. The purpose of part 800 “is to set forth policies and procedures for the award and administration of loans to minority business enterprises.” 10 CFR 800.001. Minority is defined as “[a]n individual who is a citizen of the United States and who is a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut, or is a Spanish speaking individual of Spanish descent.” 10 CFR 800.003. The regulations set out to provide preference to minority business owners, based on the color of their skin. For this reason alone, DOE has determined it must rescind these regulations to be in compliance at least with Supreme Court rulings. DOE has determined there is no reliance interest in an unlawful regulation. *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 32 (2020).

Regardless, and independently, DOE has determined that 10 CFR part 800 violates the Secretary’s policy to treat people without regard to the color of their skin. Contrary to this policy, the regulations identify groups based on their race, sort them, and intentionally deliver preferences based on the resulting groups. Even if such regulations were constitutional, DOE would rescind them.

DOE also has a preference for deregulation. The provisions in 10 CFR part 800 outline a program that DOE will not use and so they should be rescinded for this additional reason. DOE seeks all comments on this direct final rule.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order (E.O.) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its

costs; (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. For the reasons stated in the preamble, this direct final rule is consistent with these principles.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rule eliminates unlawful and unnecessary regulations. Therefore, DOE concludes that the impacts of the rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This rescission imposes no new information or record-keeping

requirements. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A4, because it is an interpretation or ruling in regards to an existing regulation.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this rescission and has determined that it would not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988

specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this rescission according to UMRA and its statement of policy and determined that the rescission does not contain a Federal

intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and

Regulatory Affairs (OIRA) at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rescission and has determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rescission is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date.

III. Approval of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comments.

List of Subjects in 10 CFR Part 800

Government contracts, Loan programs—business, Minority businesses, Research.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register

Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

PART 800 [Removed]

■ For the reasons set forth in the preamble, under the authority sec. 211(e) of the Department of Energy (DOE) Organization Act, Pub. L. 95–91, Title II, as amended by Pub. L. 95–619, Title VI, sec. 641, Nov. 9, 1978, 92 Stat. 3284 (42 U.S.C. 7141), DOE removes part 800 of chapter III of title 10 of the Code of Federal Regulations.

[FR Doc. 2025–08573 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 1000

[DOE–HQ–2025–0018]

RIN 1990–AA53

Rescinding Obsolete Transfer of Proceedings Regulations

AGENCY: Office of General Counsel, Department of Energy (DOE).

ACTION: Direct final rule (DFR); request for comments.

SUMMARY: This DFR rescinds regulations outlining the 1977 transfer of proceedings to the Department of Energy from its predecessor agencies. The effect will be the removal of obsolete regulations.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0018. Follow

the instructions for submitting comments. **Docket:** The docket for this final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0018. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the final rule.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

DOE is rescinding part 1000 of title 10, Code of Federal Regulations by this direct final rule. In 1977, the Department of Energy Organization Act (Pub. L. 95–91) consolidated certain functions previously performed by several Federal agencies within DOE, including the Federal Energy Regulatory Commission (FERC). Part 1000 outlined which certain of these functions and proceedings would be transferred to the jurisdiction of the Secretary of Energy

and which would be transferred to the jurisdiction of FERC. Section 1000.1 lists certain categories of proceedings as well as specific then-pending proceedings to be transferred to DOE or FERC. These transfers of functions occurred over 47 years ago. This part is now obsolete. DOE therefore rescinds the part 1000 in its entirety. The authority for this rule is the Department of Energy Organization Act, Public Law 95–91, 91 Stat. 567.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

For the reasons stated in the preamble, this direct final rule is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this direct final rule does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this direct final rule was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory

flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rule eliminates obsolete regulations. Therefore, DOE initially concludes that the impacts of the rescission would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This rescission imposes no new information or record-keeping requirements. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A5, because it is an interpretive rulemaking that does not change the environmental effect of the rule.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to

examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this rescission and determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA") requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a

significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rescission and determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rescission is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

III. Approval of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comment.

List of Subjects in 10 CFR Part 1000

Federal Energy Regulatory Commission, Organization and functions (Government agencies).

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

PART 1000 [Removed]

■ For the reasons set forth in the preamble, under the authority of Pub. L. 95–91, 91 Stat. 567 (42 U.S.C. 7101 *et seq.*); E.O. 12009, 42 FR 46267, DOE

removes part 1000 of chapter X of title 10 of the Code of Federal Regulation.

[FR Doc. 2025–08570 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY**10 CFR Part 1003**

[DOE–HQ–2025–0013]

RIN 1910–AA57

Revisions to the Office of Hearings and Appeals Procedural Regulations

AGENCY: Department of Energy (DOE).

ACTION: Direct final rule.

SUMMARY: DOE is issuing this direct final rule to revise the Office of Hearings and Appeals (OHA) procedures encouraging alternative dispute resolution for parties appearing before the OHA.

DATES: The direct final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to the significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0013. Follow the instructions for submitting comments.

The docket for this final rule, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0013. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at

www.regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Office of the Secretary

I. General Discussion

DOE is rescinding Section 1003.13 of Title 10, Code of Federal Regulations by this direct final rule. This regulation contains a statement that encourages the use of alternative dispute resolution (ADR) for parties appearing before the OHA and advises that participation in ADR is voluntary. It does not confer any substantive right or obligation on the Agency or any party and is not required by statute. Therefore, DOE rescinds 1003.13 in its entirety. DOE seeks any comments on this proposal.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives,

rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. For the reasons stated in the preamble, this direct final rule is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this direct final rule does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this direct final rule was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This final rule eliminates a provision in regulations that creates no substantive right or obligation. Therefore, DOE initially concludes that the impacts of this final rule would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This final rule imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this proposed action in accordance with National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion for rulemakings that are strictly procedural. See 10 CFR part 1021, subpart D, appendix A6. DOE has determined that this rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

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

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct

rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at

www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this final rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this final rule under OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This final rule is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this final rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This final rule is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comment.

List of Subjects in 10 CFR Part 1003

Administrative practice and procedure, Appeal procedures, Hearing and appeal procedures.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary, U.S. Department of Energy. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE amends part 1003 of chapter X of title 10 of the Code of Federal Regulations, as set forth:

PART 1003—OFFICE OF HEARINGS AND APPEALS PROCEDURAL REGULATIONS

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 15 U.S.C. 761 *et seq.*; 42 U.S.C. 7101 *et seq.*

§ 1003.13 [Removed and Reserved]

■ 2. Remove and reserve § 1003.13.

[FR Doc. 2025–08540 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY**10 CFR Part 1040**

[DOE–HQ–2025–0024]

RIN 1903–AA20

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

AGENCY: Office of Minority Economic Impact, Department of Energy (DOE).

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule rescinds certain unnecessary regulatory provisions related to nondiscrimination in federally assisted programs or activities.

DATES: The direct final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments are ones which oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notification will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new direct final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0024. Follow the instructions for submitting comments.

The docket for this direct final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0024. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:**Table of Contents****I. General Discussion****II. Procedural Issues and Regulatory Review**

- A. Review Under Executive Orders 12866
- B. Review Under the Regulatory Flexibility Act
- C. Review Under the Paperwork Reduction Act
- D. Review Under the National Environmental Policy Act of 1969
- E. Review Under Executive Order 13132
- F. Review Under Executive Order 12988
- G. Review Under the Unfunded Mandates Reform Act

- H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

DOE is rescinding certain provisions from its regulations codified at part 1040 of chapter X of title 10 of the Code of Federal Regulations (CFR) (“Nondiscrimination in Federally Assisted Programs or Activities”) under subpart A—“General Provisions”; subpart B—“Title VI of the Civil Rights Act of 1964”¹ (“title VI”); section 16 of the Federal Energy Administration Act of 1974, as Amended² (“section 16”); and section 401 of the Energy Reorganization Act of 1974³ (“section 401”); subpart D—“Nondiscrimination on the Basis of Handicap—Section 504 of the Rehabilitation Act of 1973, as amended”⁴ (“section 504”); subpart F—Nondiscrimination Under Title VIII of the Civil Rights Act of 1968, as Amended [Reserved]⁵ (“title VIII”); and subpart G—Program Monitoring. DOE is rescinding twelve (12) provisions under these subparts as follows:

- (1) a clause in subpart A at 10 CFR 1040.1 covering employment practices
- (2) a clause in 10 CFR 1040.12 at subpart A, covering employment practices
- (3) a clause in 10 CFR 1040.14 at subpart A, covering employment practices
- (4) paragraph (c) of 10 CFR 1040.5 at subpart A, covering information in appropriate languages
- (5) paragraph (c) of 10 CFR 1040.6 at subpart A, covering information in appropriate languages
- (6) the entirety of 10 CFR 1040.8 at subpart A, covering the effect of employment opportunity
- (7) paragraph (c) of 10 CFR 1040.13 at subpart B, covering the effect of criteria or methods
- (8) paragraph (d) of 10 CFR 1040.13 at subpart B, covering the effect of facilities location
- (9) paragraph (c) of 10 CFR 1040.72 at subpart D, covering a time period (now past)
- (10) paragraph (d) of 10 CFR 1040.72 at subpart D, covering a transition plan (now obsolete)

¹ Public Law 88–352.

² Public Law 93–275.

³ Public Law 93–438.

⁴ Public Law 93–112.

⁵ Public Law 90–284.

(11) the entirety of subpart F, reserved for a statute (title VIII) that is not enforced by DOE;

(12) paragraph (d) of 10 CFR 1040.102 at subpart G covering superfluous information

For the reasons explained further below, DOE is rescinding these provisions after determining that they are either outdated, raise serious constitutional difficulties, or are based on anything other than the best reading of the underlying statutory authority or prohibition.

Covered Employment Practices at 10 CFR 1040.1, 1040.12, and 1040.14

According to 10 CFR 10401.1 the purpose of part 1040 (Nondiscrimination in federally assisted programs or activities) is to implement a variety of civil rights and nondiscrimination laws. These laws ensure that no one may “be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment, where a primary purpose of the Federal financial assistance is to provide employment or when the delivery of services is affected by the recipient’s employment practices (under section 504, all grantee and subgrantee employment practices are covered regardless of the purpose of the program), in connection with any program or activity receiving Federal financial assistance from [DOE].” 10 CFR 10401.1.

This employment coverage also extends to subpart B of 10 CFR part 1040 implementing title VI, section 16, and section 401. Specifically, the subpart B definitions at 10 CFR 1040.12(a)(1) state that covered employment practices not only include those which exist in programs where a primary objective of the Federal financial assistance is to provide employment, but also to practices which “(ii) Cause discrimination on the basis of race, color, or national origin with respect to beneficiaries or potential beneficiaries of the assisted program.” Furthermore, under 10 CFR 1040.12(a)(2), “[a]ll employment practices of a recipient or subrecipient of Federal financial assistance subject to section 16 and section 401 are covered employment practices.” Additionally, 10 CFR 1040.14(a)(2) states that, “[i]n regard to Federal financial assistance which does not have the provision of employment as a primary objective, the provisions of paragraph (a)(1) of this section (enumerating prohibited employment discrimination) apply to the employment practices of the recipient if discrimination on the

ground of race, color, national origin, or sex (when covered by section 16 or section 401) in such employment practices tends to exclude persons from participation in, deny them the benefits of, or subject them to discrimination under the program receiving Federal financial assistance.”

DOE has determined that the expansive coverage of employment by these clauses as applied to title VI (and through incorporation by reference, section 16, and section 401⁶) find no support in the statute itself. Rather, section 2000d–3 of title VI expressly provides that: “Nothing contained in this subchapter shall be construed to authorize action under this subchapter by any Department or agency with respect to any employment practice of any employer, employment agency, or labor organization *except* where a primary objective of the Federal financial assistance is to provide employment.”⁷ As the U.S. Supreme Court explains, “Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose.”⁸ “Where . . . that examination yields a clear answer, [we] must stop.”⁹ In acknowledgement of this judicial precedent, and the express statutory language of title VI, DOE’s direct final rule rescinds the following:

(1) The clause in 10 CFR 1040.1(a) stating, “or when the delivery of services is affected by the recipient’s employment practices.” Importantly, the rescission of this clause in no way disturbs the following clauses stating that, “under section 504, all grantee and subgrantee employment practices are covered regardless of the purpose of the program” and, “Employment coverage may be broader in scope when section 16, section 401, or Title IX are applicable.” As to these undisturbed clauses, it is further noted that the employment practices covered by DOE’s

section 504 regulations at subpart D are not affected by this direct final rule. Additionally, the remedies available under section 16 and section 401 are not exclusive to subpart B of 10 CFR part 1040, and thus, do not prejudice any other legal remedies available to any persons alleging sex discrimination in a programs authorized by the Federal Energy Administration Act or the Federal Energy Organization Act that are not covered by 10 CFR part 1040. Finally, the coverage of employment under title IX, which is enforced by DOE regulations at 10 CFR part 1042, is not affected by this direct final rule.

(2) The portion of the definition in 10 CFR 1040.12(a) regarding covered employment practices under title VI, section 16, and section 401, stating—“or . . . (ii) Cause discrimination on the basis of race, color, or national origin with respect to beneficiaries or potential beneficiaries of the assisted program”; and the definition stating 10 CFR 1040.12(a)(2) that—“All employment practices of a recipient or subrecipient of Federal financial assistance subject to section 16 and section 401 are covered employment practices.”

(3) 10 CFR 1040.14(a)(2), stating—“In regard to Federal financial assistance which does not have provision of employment as a primary objective, the provisions of paragraph (a)(1) of this section apply to the employment practices of the recipient if discrimination on the ground of race, color, national origin, or sex (when covered by section 16 or section 401) in such employment practices tends to exclude persons from participation in, deny them the benefits of, or subject them to discrimination under the program receiving Federal financial assistance. In any such case, the provisions of paragraph (a)(1) of this section apply to the extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.”

Information in Appropriate Languages Under 10 CFR 1040.5(c) and 1040.6(c)

The DOE regulation at 10 CFR 1040.5(c) provides that: “Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program or activity requires service or information in a language other than English in order to be informed of or to participate in the program, the recipient shall take reasonable steps, considering the scope of the program and size and concentration of such population, to provide information in appropriate languages (including braille) to such

⁶ Both section 16 and section 401 expressly provide that each section “will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under Title VI of the Civil Rights Act of 1964.”

⁷ See section 2000d–3—Construction of provisions not to authorize administrative action with respect to employment practices except where primary objective of Federal financial assistance is to provide employment. Public Law 88–352, Title VI, section 604, July 2, 1964, 78 Stat. 253.

⁸ See *Gross v. FBL Financial Services, Inc.*, 557 U.S. 167, 175, 129 S. Ct. 2343, 2350, 174 L. Ed. 2d 119 (2009); see also *Schindler Elevator Corp. v. United States ex rel. Kirk*, 563 U.S. 401, 407, 131 S. Ct. 1885, 179 L.Ed.2d 825 (2011).

⁹ *Food Mktg. Inst. v. Argus Leader Media*, 588 U.S. 427, 436, 139 S. Ct. 2356, 2364, 204 L. Ed. 2d 742 (2019).

persons. This requirement applies to written material of the type which is ordinarily distributed to the public. The Department may require a recipient to take additional steps to carry out the intent of this subsection.” The Notice requirements of 10 CFR 1040.6 further state at paragraph (c) that: “The provisions of § 1040.5(c) to provide information in appropriate languages (including braille), apply to this section.”

DOE has determined that the requirements imposed by 10 CFR 1040.5(c) and 1040.6(c) are not based on the best reading of the underlying statutory authority or prohibition. Rather, those requirements promote the policy goals of revoked Executive Order (E.O.) 13166, *Improving Access to Services for Persons with Limited English Proficiency* (LEP).¹⁰

Notwithstanding the fact that E.O. 13166 sought “to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP),” title VI must be enforced consistent with the Fourteenth Amendment to the U.S. Constitution.¹¹ Consequently, while title VI authorizes and directs agencies to issue rules, regulations, and orders of general applicability that prohibit intentional discrimination,¹² it does not authorize an agency to dictate that a recipient provide services or information in languages other than English.

Consistent with its statutory authority, DOE is rescinding 10 CFR 1040.5(c) and 1040.6(c). Importantly, the rescission of these provisions in no way eliminates or alters the right of any federally assisted program applicant, participant, other eligible beneficiary, or validly covered employee, to be free of intentional discrimination *because of* national origin, as that has always been prohibited by title VI and the statutorily

authorized and valid sections of 10 CFR part 1040. The rescission of these provisions also does not affect the prohibitions on disability discrimination under subpart D implementing section 504.

Effect of Employment Opportunity Under 10 CFR 1040.8

According to 10 CFR 1040.8, “due to limited opportunities in the past, certain protected groups may be underrepresented in some occupations or professions.” Based on that stated presumption, this provision further asserts that “a recipient’s obligation to comply with this part is not alleviated by use of statistical information which reflects limited opportunities in these occupations or professions.”

DOE has determined that 10 CFR 1040.8 suffers from fatal constitutional infirmities. Despite the provision’s presumption, the effects of past societal discrimination are not a sufficiently compelling justification for racial classifications by or for any level of government.¹³ Furthermore, absent a specific, identified, instance of intentional discrimination, statistical information indicating that certain protected groups are underrepresented in some occupations or professions does not obligate any FFA recipient to take remedial or affirmative action under this part. To the contrary, any affirmative action for which “measures of success” depend on “whether some proportional goal has been reached” amounts to “outright racial balancing” which is “patently unconstitutional.”¹⁴ For these reasons, DOE is rescinding 10 CFR 1040.8 in its entirety.

Prohibited Effects Under 10 CFR 1040.13(c) and (d)

According to 10 CFR 1040.13(c), “A recipient . . . may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex . . . or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular

race, color, national origin, or sex”

According to 10 CFR 1040.13(d), “In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination because of race, color, national origin, or sex . . . or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of title VI or this subpart.”

DOE has determined that the “effect” language of 10 CFR 1040.13(c) and (d) raises serious constitutional difficulties and is not based on the best reading of title VI. In fact, unlike the results-oriented terms in other statutes, the express statutory language of title VI only prohibits intentional discrimination.¹⁵ It contains no such clause prohibiting “effects” (commonly known as disparate impact). Rather, the words “have the effect of” were embedded in the title VI regulations by the Department of Justice decades ago, to reflect agency policy preferences. Most recently, a solid majority of the U.S. Supreme Court Justices reaffirmed that the equal protection principles of the Constitution, which extend to title VI, do not permit the elimination of society’s racial disparities through race-based means.¹⁶ Furthermore, even as far back as the case of *Village of Arlington Heights v. Metropolitan Housing Development Corp.*,¹⁷ the Supreme Court explained that official action will not be held unconstitutional solely because it results in a racially disproportionate impact. “Such impact is not irrelevant. . . but it is not the sole touchstone of invidious racial discrimination.” Rather, “Determining whether [an] invidious discriminatory purpose was a motivating factor demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.”¹⁸

DOE’s rescission of the “effect” language in 10 CFR 1040.13(c) and (d) aligns with the evidentiary approach set forth by the Supreme Court in *Arlington Heights*, and the express statutory authority of title VI, interpreted coextensively with the Constitution’s guarantee of equal protection. Thus, no FFA recipient will be held liable by

¹⁰ 65 FR 50121 (August 16, 2000).

¹¹ See *Regents of University of California v. Bakke*, 438 U.S. 265, 285 (1978); see also *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College and Students for Fair Admissions, Inc. v. University of North Carolina, et al.*, 143 S. Ct. 2141 (2023).

¹² Public Law 88–352, title VI, section 601, July 2, 1964, 78 Stat. 252. To effectuate the purpose of section 601, section 602 of title VI specifically states that—“Each Federal Department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or [contract of] guaranty, is authorized and directed to effectuate the provisions of [§ 601 of this Title] with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.”

¹³ See *Students For Fair Admissions, Inc. v. President and Fellows of Harvard College and University of North Carolina, et al.*, 143 S. Ct. 2141 (2023). See also *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 217 (1995) (“the equal protection obligations imposed by the Fifth and the Fourteenth Amendments [are] indistinguishable,” so that “the standards for federal and state racial classifications [are] the same”).

¹⁴ *Students For Fair Admissions, Inc. v. President and Fellows of Harvard College and University of North Carolina, et al.*, 143 S. Ct. 2141 (2023).

¹⁵ Public Law 88–352, title VI, section 601, July 2, 1964, 78 Stat. 252.

¹⁶ See *Students For Fair Admissions, Inc. v. President and Fellows of Harvard College and University of North Carolina, et al.*, 143 S. Ct. 2141 (2023).

¹⁷ 429 U.S. 252 (1977).

¹⁸ Powell, J. quoting *Washington v. Davis*, 426 U.S. 229, 242, 96 S. Ct. 2040, 2049, 48 L.Ed.2d 597.

DOE under 10 CFR part 1040 for disparate impacts it did not intentionally cause. However, where DOE “smokes out”¹⁹ a recipient policy masking intentional discrimination, the recipient will be required to take any and all remedial action necessary to overcome the harms of that discrimination. Such remedy shall concentrate on the elimination of the offending practice, consistent with the U.S. Constitution. For these reasons, DOE’s direct final rule rescinds the following:

(1) The clause in 10 CFR 1040.13(c) prohibiting recipients from utilizing criteria or methods of administration that “have the effect of subjecting individuals to discrimination. . . .” This clause will be replaced and instead prohibit recipients from utilizing “criteria or methods of administration which intentionally subject individuals to discrimination.”

(2) The clauses in 10 CFR 1040.13(d) prohibiting recipients from making “selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination because of race, color, national origin, or sex” and from determining a site or location of facilities with the “purpose or effect of defeating or substantially impairing the accomplishment of the objectives of title VI or this subpart.” These clauses will be replaced and instead prohibit recipients from making “selections with the *intent* of excluding individuals from, denying them the benefits of, or subjecting them to discrimination because of race, color, national origin, or sex” and from determining a site or location of facilities with the “*intent* of defeating or substantially impairing the accomplishment of the objectives of title VI or this subpart.”

Time Period and Transition Plan Under 10 CFR 1040.72(c) and (d)

The DOE regulations implementing section 504 provide a time period and transition plan for recipient compliance with section 504 accessibility standards applicable to existing facilities. Specifically, 10 CFR 1040.72(c) provides that “A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this subpart except that where structural changes in facilities are necessary, the changes are to be made as expeditiously as possible, but in no event later than three years after the effective date of this subpart.” Paragraph (d) of § 1040.72 further

provides that “In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within 6 months of the effective date of this subpart, a transition plan setting forth the steps necessary to complete the changes.”

In light of the fact that over two decades have passed since the effective date of subpart D of 10 CFR part 1040 implementing section 504, DOE has determined that 10 CFR 1040.72(c) and (d) are obsolete and outdated. DOE’s direct final rule thus rescinds each of these provisions in their entirety.

Implementation of Title VIII Regulations Under Subpart F

When DOE first promulgated 10 CFR part 1040, it reserved subpart F for regulations that would implement title VIII of the Civil Rights Act of 1968 (known as the Fair Housing Act or FHA). Although DOE never issued FHA regulations under subpart F, in the intervening years the U.S. Department of Housing and Urban Development (HUD) was tasked with enforcing the FHA. DOE’s direct final rule thus rescinds subpart F as the purpose for its reservation has been rendered obsolete. DOE will continue to refer any and all received complaints of housing discrimination to HUD pursuant to the FHA.

Information to Program Participants and Beneficiaries Under 10 CFR 1040.102(d)

Under 10 CFR 1040.102(d), “Each recipient shall make available to participants, beneficiaries, and other interested persons information regarding the provisions of this section and its applicability to the program under which the recipient receives Federal financial assistance. Information is to be made available to beneficiaries, participants, and other interested persons in a manner which the responsible Department officials find necessary to inform such persons of the protections against discrimination assured them by this part and the statutes to which this part applies.”

DOE’s direct final rule rescinds 10 CFR 1040.102(d) for the following reasons. DOE has determined that this paragraph is superfluous because other provisions of 10 CFR part 1040 include similar or sizably more requirements. Specifically, 10 CFR 1040.6(a) requires that every recipient “take appropriate, initial and continuing steps to notify participants, beneficiaries, applicants and employees, including those with impaired vision or hearing, and unions or professional organizations . . . that it

does not discriminate on the basis of race, color, national origin, sex, disability, or age. The notification is to include an identification of the responsible employee designated under 10 CFR 1040.5.” Additionally, 10 CFR 1040.6(b) requires a recipient that publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees to also include the notice described in 10 CFR 1040.6(a). Another provision at 10 CFR 1040.5(b) states that every “recipient shall display prominently, in reasonable numbers and places, posters which state that the recipient operates a program or activity subject to the nondiscrimination provisions of applicable subparts, summarize those requirements, note availability of information regarding this part from the recipient and DOE, and explain briefly the procedures for filing a complaint. Information on requirements of this part, complaint procedures and the rights of beneficiaries are to be included in handbooks, manuals, pamphlets, and other materials which are ordinarily distributed to the public to describe the federally assisted programs or activities and the requirements for participation by recipients and beneficiaries. To the extent that recipients are required by law or regulation to publish or broadcast information in the news media, the recipient shall insure that such publications and broadcasts state that the program or activity in question is an equal opportunity program or activity or otherwise indicate that discrimination in the program is prohibited by Federal law.”

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order (E.O.) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that

¹⁹ See *Ricci v. DeStefano*, 557 U.S. 557, 595 (2009) (Scalia, J., concurring).

maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

For the reasons stated in the preamble, this direct final rule is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this direct final rule does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this direct final rule was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This final rule eliminates unnecessary regulations. Therefore, DOE initially concludes that the impacts of the rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

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

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended (“NEPA”), and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion for rulemakings that are strictly procedural. *See* 10 CFR part 1021, subpart D, appendix A6. DOE has determined that this rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to

minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a), (b). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy

statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14192. This rescission is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

III. Approval of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comment.

List of Subjects in 10 CFR Part 1040

Aged, Civil rights, Equal employment opportunity, Individuals with disabilities, Sex discrimination.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary, Department of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of

Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

For the reasons set forth in the preamble, DOE amends part 1040 of chapter X of title 10 of the Code of Federal Regulations, as set forth below:

PART 1040—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES

■ 1. The authority citation for part 1040 continues to read as follows:

Authority: 20 U.S.C. 1681–1686; 29 U.S.C. 794; 42 U.S.C. 2000d to 2000d–7, 3601–3631, 5891, 6101–6107, 7101 *et seq.*

■ 2. Amend § 1040.1 by revising paragraph (a) to read as follows:

§ 1040.1 Purpose.

(a) The purpose of this part is to implement title VI of the Civil Rights Act of 1964, Public Law 88–352; section 16 of the Federal Energy Administration Act of 1974, as amended, Public Law 93–275; section 401 of the Energy Reorganization Act of 1974, Public Law 93–438; title IX of the Education Amendments of 1972, as amended, Public Law 92–318, Public Law 93–568 and Public Law 94–482; section 504 of the Rehabilitation Act of 1973, as amended, Public Law 93–112; the Age Discrimination Act of 1975, Public Law 94–135; title VIII of the Civil Rights Act of 1968, Public Law 90–284; and civil rights provisions of statutes administered pursuant to authority under the DOE Organization Act, Public Law 95–91, so no person shall, on the ground of race, color, national origin, sex (when covered by section 16 and section 401), handicap, or age, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment, where a primary purpose of the Federal financial assistance is to provide employment (under section 504, all grantee and subgrantee employment practices are covered regardless of the purpose of the program), in connection with any program or activity receiving Federal financial assistance from the Department of Energy (after this referred to as DOE or the Department). Employment coverage may be broader in scope when section 16, section 401, or title IX are applicable.

* * * * *

■ 3. Amend § 1040.12 by revising paragraph (a) to read as follows:

§ 1040.12 Definitions.

(a) *Covered employment* means employment practices covered by title VI, section 16 and section 401.

(1) Under title VI, such practices are those which, exist in a program where a primary objective of the Federal financial assistance is to provide employment; or

(2) Under section 16 and section 401, such practices include, but are not limited to, employment practices covered by title VI when alleging discrimination on the basis of sex.

* * * * *

§ 1040.5 [Amended]

■ 4. Amend § 1040.5 by removing and reserving paragraph (c).

§ 1040.6 [Amended]

■ 5. Amend § 1040.6 by removing and reserving paragraph (c).

§ 1040.8 [Removed and Reserved]

■ 6. Remove and reserve § 1040.8.

■ 7. Amend § 1040.13 by revising paragraphs (c) and (d) to read as follows:

§ 1040.13 Discrimination prohibited.

* * * * *

(c) *Type of Federal financial assistance.* A recipient, in determining the type of Federal financial assistance (i.e., disposition, services, financial aid, benefits, or facilities) which will be provided under any program, or the class of individuals to whom, or the situations in which the assistance will be provided, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which intentionally subject individuals to discrimination because of their race, color, national origin, or sex (when covered by section 16 and section 401) or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex (when covered by section 16 or section 401).

(d) *Site or location of facilities.* In determining the site or location of facilities, a recipient or applicant may not make selections with the intent of excluding individuals from, denying them the benefits of, or subjecting them to discrimination because of race, color, national origin, or sex (when covered by section 16 or 401) or with the intent of defeating or substantially impairing the accomplishment of the objectives of title VI or this subpart.

* * * * *

§ 1040.14 [Amended]

■ 8. Amend § 1040.14 by removing and reserving paragraph (a)(2).

§ 1040.72 [Amended]

■ 9. Amend § 1040.72 by removing and reserving paragraphs (c) and (d).

Subpart F [Removed]

■ 10. Remove subpart F.

Subparts G and H [Redesignated as Subparts F and G]

■ 11. Redesignate subparts G and H as subparts F and G.

§ 1040.102 [Amended]

■ 12. Amend § 1040.102 by removing and reserving paragraph (d).

[FR Doc. 2025–08593 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 1040

[DOE–HQ–2025–0015]

RIN 1903–AA24

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

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

ACTION: Direct final rule (DFR); request for comments.

SUMMARY: This DFR rescinds certain new construction requirements related to disability nondiscrimination in federally assisted programs or activities.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments are ones which oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notification will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0015. Follow the instructions for submitting final comments. The docket for this final

rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0015. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Secretary

I. General Discussion

Through this direct final rule, DOE is rescinding certain provisions from its regulations found at part 1040 of chapter X of title 10 of the Code of Federal Regulations (CFR) (“Nondiscrimination in Federally Assisted Programs or Activities”). Specifically, DOE is rescinding 10 CFR 1040.73, “New Construction.” Upon further evaluation, and for the reasons explained subsequently, DOE has determined this provision to be unnecessary and unduly burdensome.

Under 10 CFR 1040.73, each facility or part of a facility constructed by, on

behalf of, or for the use of a recipient of federal financial assistance is to be designed and constructed in a manner that the facility or part of the facility is readily accessible to, and useable by, handicapped persons, if the construction was commenced after June 13, 1980. 10 CFR 1040.73(a). Relatedly, in the case of an alteration, each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient of Federal financial assistance after June 13, 1980, in a manner that affects or could affect the usability of the facility or part of the facility is, to the maximum extent feasible, to be altered in a manner that the altered portion of the facility is readily accessible to and useable by handicapped persons. 10 CFR 1040.73(b). Finally, under the regulation, design, construction, or alteration of buildings in conformance with section 3–8 of the Uniform Federal Accessibility Standards shall be deemed to comply with the requirements of the regulation with respect to those buildings. 10 CFR 1040.73(c).

Given the general prohibition on discriminatory activities and related penalties, see 10 CFR 1040.71, DOE finds these additional provisions unnecessary and unduly burdensome. It is DOE's policy to give private entities flexibility to comply with the law in the manner they deem most efficient. One-size-fits-all rules are rarely the best option. Accordingly, DOE finds good reason to eliminate this regulatory provision.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rule eliminates burdensome regulations. Therefore, DOE initially concludes that the impacts of the rescission would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

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

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended, ("NEPA") and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A5, because it is an interpretive rulemaking that does not change the environmental effect of the rule.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this rescission and has determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly

specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this rescission according to UMRA and its statement of policy and determined that the rescission does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by

State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that

promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rescission and has determined that it is consistent with the policies and directives outlined in E.O. 14154, “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rescission is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

III. Approval of the Secretary

The Secretary of Energy has approved publication of this direct final rule; and request for comment.

List of Subjects in 10 CFR Part 1040

Aged, Civil rights, Equal employment opportunity, Individuals with disabilities, Sex discrimination.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the

undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett

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

For the reasons set forth in the preamble, DOE amends part 1040 of chapter X of title 10 of the Code of Federal Regulations, as set forth below:

PART 1040—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES

■ 1. The authority citation for part 1040 continues to read as follows:

Authority: 20 U.S.C. 1681–1686; 29 U.S.C. 794; 42 U.S.C. 2000d to 2000d–7, 3601–3631, 5891, 6101–6107, 7101 *et seq.*

§ 1040.73 [Removed and Reserved]

■ 2. Remove and reserve § 1040.73.

[FR Doc. 2025–08535 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 1042

[DOE–HQ–2025–0016]

RIN 1903–AA25

Nondiscrimination on the Basis of Sex in Sports Programs Arising Out of Federal Financial Assistance

AGENCY: Department of Energy (DOE); Office of Civil Rights and EEO.

ACTION: Direct final rule (“DFR”); request for comments.

SUMMARY: This DFR amends existing regulations requiring certain funding recipients that sponsor sports teams for members of one sex to allow members of the opposite sex to try out for the team. Accordingly, these requirements will no longer be a factor when recipients operate sports teams.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notice will be published in the **Federal**

Register before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0016. Follow the instructions for submitting comments. The docket for this final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0016. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
 - M. Congressional Notification
- III. Approval of the Office of the Secretary

I. General Discussion

DOE is amending 10 CFR 1042.450 which establishes athletics rules in view of provisions regarding

nondiscrimination on the basis of sex in education program or activities receiving federal financial assistance. Specifically DOE is rescinding the following requirement: “where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport. For the purposes of these Title IX regulations, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.” 10 CFR 1042.450.

Such athletics rules ignore differences between the sexes which are grounded in fundamental and incontrovertible reality while also imposing a burden on local governments and small businesses who are in the best position to determine the needs of their community and constituents. The modification also aligns the rule with Presidential direction under E.O. 14201 “Keeping Men Out of Women’s Sports” which makes clear it is the policy of the United States to “oppose male competitive participation in women’s sports more broadly, as a matter of safety, fairness, dignity and truth.”

DOE seeks comment on all aspects of the rule, including but not limited to the prior rule’s consistency with statutory authority and the Constitution, the prior rule’s costs and benefits, and the prior rule’s effect on small business, entrepreneurship and private enterprise.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or

manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

For the reasons stated in the preamble, this direct final rule is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this direct final rule does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this direct final rule was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. DOE initially concludes that the impacts of the rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This rule imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not

required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

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

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to

ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this proposed amendment according to UMRA and its statement of policy and determined that the proposed amendment does not contain a Federal intergovernmental mandate, nor is it expected to require

expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed amendment would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed amendment under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action.

A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed amendment is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposal and has determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,”; E.O. 14219 “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This final rule is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comment.

List of Subjects in 10 CFR Part 1042

Education, Sex discrimination.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That

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

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE amends part 1042 of chapter X, of title 10 of the Code of Federal Regulations, as set forth:

PART 1042—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

■ 1. The authority citation for part 1042 continues to read as follows:

Authority: 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688; 42 U.S.C. 7101 *et seq.*; and 50 U.S.C. 2401 *et seq.*

■ 2. Amend § 1042.450 by revising paragraph (b) to read as follows:

§ 1042.450 Athletics.

* * * * *

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport.

* * * * *

[FR Doc. 2025–08557 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 1042

[DOE–HQ–2025–0025]

RIN 1903–AA22

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

AGENCY: Office of Minority Economic Impact, Department of Energy (DOE).

ACTION: Direct final rule; request for comments.

SUMMARY: This final rule rescinds certain unnecessary regulatory provisions related to nondiscrimination on the basis of sex in education programs or activities receiving federal financial assistance.

DATES: The final rule is effective July 15, 2025, unless significant adverse comments are received by June 16, 2025. Significant adverse comments are ones which oppose the rule and raise, alone or in combination, a serious enough issue related to each of the independent grounds for the rule that a substantive response is required. If significant adverse comments are received, notification will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE-HQ-2025-0025. Follow the instructions for submitting comments. The docket for this final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0025. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act

- H. Review Under the Treasury and General Government Appropriations Act, 1999
- I. Review Under Executive Order 12630
- J. Review Under the Treasury and General Government Appropriations Act, 2001
- K. Review Under Executive Order 13211
- L. Review Under Additional Executive Orders and Presidential Memoranda
- III. Approval of the Secretary

I. General Discussion

DOE is rescinding certain provisions from its regulations found in part 1042 of chapter X of title 10 of the Code of Federal Regulations (CFR) (“Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance”). Specifically, DOE is rescinding paragraphs (b) through (d) of 10 CFR 1042.110, “Remedial and affirmative action and self-evaluation.” Upon further evaluation, and for the reasons explained subsequently, DOE has determined these provisions to be unnecessary.

Under 10 CFR 1042.110(a), if the designated agency official finds that a recipient of financial assistance has discriminated against persons on the basis of sex in an education program or activity, the recipient “shall take such remedial action as the designated agency official deems necessary to overcome the effects of such discrimination.” This provision contains a direct requirement for recipients to take remedial action upon a finding of discrimination. This provision can be distinguished from 10 CFR 1042.110(b), which permits recipients to take action in the absence of such a finding. The regulation at 10 CFR 1042.110(b) states, “a recipient may take affirmative action consistent with law to overcome the effects of conditions that resulted in limited participation therein by persons of a particular sex.” 10 CFR 1042.110(b) contains no substantive right or obligation but rather grants permission for a recipient to “take action . . . consistent with law.” Accordingly, DOE finds this provision to be unnecessary.

The regulations at 10 CFR 1042.110(c) and (d) contain self-evaluation and records maintenance requirements for recipients. The regulation at 10 CFR 1042.110(c) requires that each recipient conduct a self-evaluation “within one year of February 20, 2001” which will then be maintained “for at least three years” pursuant to 10 CFR 1042.110(c). The regulations under 10 CFR 1042.110(c) and (d) are not ongoing self-evaluation and records maintenance requirements for recipients, rather these were focused on an evaluation conducted during a limited time period (February 20, 2001–February 20, 2002)

and the records maintenance requirements for that evaluation. As the requirements from the regulations under 10 CFR 1042.110(c) and (d) expired over twenty years ago, they are unnecessary.

For the reasons above, DOE is rescinding these provisions. DOE seeks all comments on its rescission.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order (E.O.) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

For the reasons stated in the preamble, this final rule is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this direct final rule does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this direct final rule was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

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

have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rescission eliminates provisions in regulations that are unnecessary and create no substantive right or obligation. Therefore, DOE initially concludes that the impacts of the rescission would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

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

D. Review Under the National Environmental Policy Act of 1969

DOE has reviewed this final rule under 10 CFR part 1021, DOE's National Environmental Policy Act Implementing Procedures. DOE has determined that the final rule fits within categorical exclusion A.5 listed in appendix A to 10 CFR part 1021, subpart D: Rulemaking that interprets or amends an existing rule or regulation and that does not change the environmental effect of the rule or regulation being amended. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism

implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a

significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rescission and has tentatively determined that it is consistent with the policies and directives outlined in Executive Order 14192, “Unleashing Prosperity Through Deregulation.” This rescission is expected to be an Executive Order 14192 deregulatory action.

III. Approval of the Secretary

The Secretary of Energy has approved publication of this direct final rule; request for comment.

List of Subjects in 10 CFR Part 1042

Education, Sex discrimination.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary, Department of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

For the reasons set forth in the preamble, DOE amends part 1042 of chapter X of title 10 of the Code of Federal Regulations, as set forth below:

PART 1042—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

■ 1. The authority citation for part 1042 continues to read as follows:

Authority: 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688; 42 U.S.C. 7101 *et seq.*; and 50 U.S.C. 2401 *et seq.*

§ 1042.110 [Amended]

■ 2. Amend § 1042.110 by removing and reserving paragraphs (b) through (d).

[FR Doc. 2025–08594 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1024

[Docket No. CFPB–2025–0014]

RIN 3170–AB42

Protections for Borrowers Affected by the COVID–19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X; Rescission

AGENCY: Consumer Financial Protection Bureau.

ACTION: Interim final rule; request for public comment.

SUMMARY: This interim final rule (IFR) rescinds the final rule “Protections for Borrowers Affected by the COVID–19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X.”

DATES: This IFR is effective on July 15, 2025. Comments must be received on or before June 16, 2025.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2025–0014, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. A brief summary of this document will be available at <https://www.regulations.gov/docket/CFPB-2025-0014>.

- **Email:** 2025-COVID-Mortgage-Servicing-Rescission@cfpb.gov. Include Docket No. CFPB–2025–0014 in the subject line of the message.

- **Mail/Hand Delivery/Courier:** Comment Intake—Protections for Borrowers Affected by the COVID–19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X, Rescission, c/o Legal Division Docket Manager, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

Instructions: The CFPB encourages the early submission of comments. All submissions should include the agency name and docket number. Additionally, where the Bureau has asked for specific comment on a topic, commentors should seek to highlight the topic to which its comment is applicable. Because paper mail is subject to delay, commenters are encouraged to submit

comments electronically. In general, all comments received will be posted without change to <https://www.regulations.gov>. All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Dave Gettler, Paralegal Specialist, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION: This IFR rescinds “Protections for Borrowers Affected by the COVID–19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X,” 86 FR 34848 (June 30, 2021) (2021 COVID RESPA Rule), for two reasons:

First, the 2021 COVID RESPA Rule adopted temporary procedural safeguards related to mortgage foreclosure, temporarily permitted mortgage servicers to offer certain loan modifications made available to borrowers experiencing a COVID–19 related hardship, and finalized certain temporary amendments to Regulation X related to the COVID–19 pandemic. The rule stated that the temporary procedural safeguards do not apply if a servicer makes the first notice or filing required by applicable law for any judicial or non-judicial foreclosure process on or after January 1, 2022. In addition, the rule stated that the temporary COVID–19 related live contact requirements would only be required until October 1, 2022. On April 10, 2023, then-President Biden signed a joint resolution of Congress declaring that “the national emergency declared by the finding of the President on March 13, 2020” related to the COVID–19 pandemic “is hereby terminated.” See Public Law 118–3 (Apr. 10, 2023). The Bureau finds that it has good cause to remove, without prior notice and comment, language relating to the COVID–19 pandemic added by the 2021 COVID RESPA Rule, as prior notice and comment is unnecessary. Both the temporary additional early intervention live contact requirements and the temporary special COVID–19 loss mitigation procedural safeguards have been sunset by their own terms, and the COVID–19 Public Health Emergency expired on May 11, 2023. Thus,

borrowers and servicers are no longer utilizing these safeguards. Moreover, the Bureau proposed a rule on July 24, 2024 (89 FR 60204), that would provide additional flexibility to servicers to offer streamlined loss mitigation options when borrowers seek payment assistance. As part of the revised framework, the proposal would have removed the provisions implemented in response to the COVID–19 pandemic, and the Bureau did not receive public comments on the proposed removal of those provisions. As part of any future rulemaking, the Bureau would consider and address comments received in response to the 2024 proposed rule, including comments related to applying the loss mitigation lessons learned from the COVID–19 pandemic.

Second, it is the policy of the Bureau to streamline regulatory requirements to reduce burdens on the American public. The Bureau has determined that, in light of the end of the COVID–19 pandemic, these regulations needlessly complicate Regulation X without commensurate benefits.

Section 1022 Analysis

In developing this rule, the Bureau has considered the potential benefits, costs, and impacts as required by section 1022(b)(2)(A) of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. 5512(b)(2)(A). This rule does not impose any costs to consumers or covered persons or have any direct impact on consumers’ access to consumer financial products or services. Further, it has no unique impact on insured depository institutions or insured credit unions with less than \$10 billion in assets, as described in section 1026(a) of the CFPA. Finally, it does not have any unique impact on rural consumers.

Legal Authority

The Bureau is issuing this IFR pursuant to its authority under 12 U.S.C. 2617(a), 2506(j)(3), and 2605(k)(1)(E); 12 U.S.C. 5512(b)(1); and 12 U.S.C. 5532.

List of Subjects in 12 CFR Part 1024

Banks, Banking, Condominiums, Consumer protection, Credit unions, Housing, Mortgage insurance, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation X, 12 CFR part 1024, as set forth below:

PART 1024—REAL ESTATE SETTLEMENT PROCEDURES ACT (REGULATION X)

■ 1. The authority citation for part 1024 continues to read as follows:

Authority: 12 U.S.C. 2603–2605, 2607, 2609, 2617, 5512, 5532, 5581.

Subpart C—Mortgage Servicing

§ 1024.31 [Amended]

■ 2. Amend § 1024.31 by removing the definition of “COVID–19-related hardship.”

■ 3. Amend § 1024.39 by:

■ a. Revising paragraph (a); and

■ b. Removing paragraph (e).

The revision reads as follows:

§ 1024.39 Early intervention requirements for certain borrowers.

(a) *Live contact.* Except as otherwise provided in this section, a servicer shall establish or make good faith efforts to establish live contact with a delinquent borrower no later than the 36th day of a borrower’s delinquency and again no later than 36 days after each payment due date so long as the borrower remains delinquent. Promptly after establishing live contact with a borrower, the servicer shall inform the borrower about the availability of loss mitigation options, if appropriate.

* * * * *

■ 4. Amend § 1024.41 by:

■ a. Revising paragraphs (c)(2)(i) and (c)(2)(v)(A)(1); and

■ b. Removing paragraphs (c)(2)(vi) and (f)(3).

The revisions read as follows:

§ 1024.41 Loss mitigation procedures.

* * * * *

(c) * * *

(2) * * *

(i) *In general.* Except as set forth in paragraphs (c)(2)(ii), (iii), and (v) of this section, a servicer shall not evade the requirement to evaluate a complete loss mitigation application for all loss mitigation options available to the borrower by offering a loss mitigation option based upon an evaluation of any information provided by a borrower in connection with an incomplete loss mitigation application.

* * * * *

(v) * * *

(A) * * *

(1) The loss mitigation option permits the borrower to delay paying covered amounts until the mortgage loan is refinanced, the mortgaged property is sold, the term of the mortgage loan ends, or, for a mortgage loan insured by the Federal Housing Administration, the

mortgage insurance terminates. For purposes of this paragraph (c)(2)(v)(A)(1), “covered amounts” includes, without limitation, all principal and interest payments forborne under a payment forbearance program made available to borrowers experiencing a COVID–19-related hardship, including a payment forbearance program made pursuant to the Coronavirus Economic Stabilization Act, section 4022 (15 U.S.C. 9056); it also includes, without limitation, all other principal and interest payments that are due and unpaid by a borrower experiencing COVID–19-related hardship. For purposes of this paragraph (c)(2)(v)(A)(1), “the term of the mortgage loan” means the term of the mortgage loan according to the obligation between the parties in effect when the borrower is offered the loss mitigation option.

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■ 5. Amend supplement I by:

■ a. Under § 1024.39—*Early Intervention Requirements for Certain Borrowers*, revising 39(a) *Live Contact*; and

■ b. Under § 1024.41—*Loss Mitigation Procedures*:

■ i. Revising 41(b)(1) *Complete Loss Mitigation Application*; and

■ ii. Removing 41(f)(3) *Temporary Special COVID–19 Loss Mitigation Procedural Safeguards* and 41(f)(3)(ii)(C) *Unresponsive Borrower*.

The revisions read as follows:

Supplement I to Part 1024—Official Bureau Interpretations

* * * * *

Subpart C—Mortgage Servicing

* * * * *

§ 1024.39 Early Intervention Requirements for Certain Borrowers

39(a) Live Contact.

1. *Delinquency.* Section 1024.39 requires a servicer to establish or attempt to establish live contact no later than the 36th day of a borrower’s delinquency. This provision is illustrated as follows:

i. Assume a mortgage loan obligation with a monthly billing cycle and monthly payments of \$2,000 representing principal, interest, and escrow due on the first of each month.

A. The borrower fails to make a payment of \$2,000 on, and makes no payment during the 36-day period after, January 1. The servicer must establish or make good faith efforts to establish live contact not later than 36 days after January 1—*i.e.*, on or before February 6.

B. The borrower makes no payments during the period January 1 through

April 1, although payments of \$2,000 each on January 1, February 1, and March 1 are due. Assuming it is not a leap year, the borrower is 90 days delinquent as of April 1. The servicer may time its attempts to establish live contact such that a single attempt will meet the requirements of § 1024.39(a) for two missed payments. To illustrate, the servicer complies with § 1024.39(a) if the servicer makes a good faith effort to establish live contact with the borrower, for example, on February 5 and again on March 25. The February 5 attempt meets the requirements of § 1024.39(a) for both the January 1 and February 1 missed payments. The March 25 attempt meets the requirements of § 1024.39(a) for the March 1 missed payment.

ii. A borrower who is performing as agreed under a loss mitigation option designed to bring the borrower current on a previously missed payment is not delinquent for purposes of § 1024.39.

iii. During the 60-day period beginning on the effective date of transfer of the servicing of any mortgage loan, a borrower is not delinquent for purposes of § 1024.39 if the transferee servicer learns that the borrower has made a timely payment that has been misdirected to the transferor servicer and the transferee servicer documents its files accordingly. See § 1024.33(c)(1) and comment 33(c)(1)–2.

iv. A servicer need not establish live contact with a borrower unless the borrower is delinquent during the 36 days after a payment due date. If the borrower satisfies a payment in full before the end of the 36-day period, the servicer need not establish live contact with the borrower. For example, if a borrower misses a January 1 due date but makes that payment on February 1, a servicer need not establish or make good faith efforts to establish live contact by February 6.

2. *Establishing live contact.* Live contact provides servicers an opportunity to discuss the circumstances of a borrower’s delinquency. Live contact with a borrower includes speaking on the telephone or conducting an in-person meeting with the borrower but not leaving a recorded phone message. A servicer may rely on live contact established at the borrower’s initiative to satisfy the live contact requirement in § 1024.39(a). Servicers may also combine contacts made pursuant to § 1024.39(a) with contacts made with borrowers for other reasons, for instance, by telling borrowers on collection calls that loss mitigation options may be available.

3. *Good faith efforts.* Good faith efforts to establish live contact consist of reasonable steps, under the circumstances, to reach a borrower and may include telephoning the borrower on more than one occasion or sending written or electronic communication encouraging the borrower to establish live contact with the servicer. The length of a borrower’s delinquency, as well as a borrower’s failure to respond to a servicer’s repeated attempts at communication pursuant to § 1024.39(a), are relevant circumstances to consider. For example, whereas “good faith efforts” to establish live contact with regard to a borrower with two consecutive missed payments might require a telephone call, “good faith efforts” to establish live contact with regard to an unresponsive borrower with six or more consecutive missed payments might require no more than including a sentence requesting that the borrower contact the servicer with regard to the delinquencies in the periodic statement or in an electronic communication. Comment 39(a)-6 discusses the relationship between live contact and the loss mitigation procedures set forth in § 1024.41.

4. *Promptly inform if appropriate.*

i. *Servicer’s determination.* It is within a servicer’s reasonable discretion to determine whether informing a borrower about the availability of loss mitigation options is appropriate under the circumstances. The following examples demonstrate when a servicer has made a reasonable determination regarding the appropriateness of providing information about loss mitigation options.

A. A servicer provides information about the availability of loss mitigation options to a borrower who notifies a servicer during live contact of a material adverse change in the borrower’s financial circumstances that is likely to cause the borrower to experience a long-term delinquency for which loss mitigation options may be available.

B. A servicer does not provide information about the availability of loss mitigation options to a borrower who has missed a January 1 payment and notified the servicer that full late payment will be transmitted to the servicer by February 15.

ii. *Promptly inform.* If appropriate, a servicer may inform borrowers about the availability of loss mitigation options orally, in writing, or through electronic communication, but the servicer must provide such information promptly after the servicer establishes live contact. A servicer need not notify a borrower about any particular loss mitigation options at this time; if appropriate, a

servicer need only inform borrowers generally that loss mitigation options may be available. If appropriate, a servicer may satisfy the requirement in § 1024.39(a) to inform a borrower about loss mitigation options by providing the written notice required by § 1024.39(b)(1), but the servicer must provide such notice promptly after the servicer establishes live contact.

5. *Borrower's representative.* Section 1024.39 does not prohibit a servicer from satisfying its requirements by establishing live contact with and, if applicable, providing information about loss mitigation options to a person authorized by the borrower to communicate with the servicer on the borrower's behalf. A servicer may undertake reasonable procedures to determine if a person that claims to be an agent of a borrower has authority from the borrower to act on the borrower's behalf, for example, by requiring a person that claims to be an agent of the borrower to provide documentation from the borrower stating that the purported agent is acting on the borrower's behalf.

6. *Relationship between live contact and loss mitigation procedures.* If the servicer has established and is maintaining ongoing contact with the borrower under the loss mitigation procedures under § 1024.41, including during the borrower's completion of a loss mitigation application or the servicer's evaluation of the borrower's complete loss mitigation application, or if the servicer has sent the borrower a notice pursuant to § 1024.41(c)(1)(ii) that the borrower is not eligible for any loss mitigation options, the servicer complies with § 1024.39(a) and need not otherwise establish or make good faith efforts to establish live contact. A servicer must resume compliance with the requirements of § 1024.39(a) for a borrower who becomes delinquent again after curing a prior delinquency.

* * * * *

§ 1024.41 Loss Mitigation Procedures

* * * * *

41(b)(1) Complete loss mitigation application.

1. *In general.* A servicer has flexibility to establish its own application requirements and to decide the type and amount of information it will require from borrowers applying for loss mitigation options. In the course of gathering documents and information from a borrower to complete a loss mitigation application, a servicer may stop collecting documents and information for a particular loss mitigation option after receiving information confirming that, pursuant to

any requirements established by the owner or assignee of the borrower's mortgage loan, the borrower is ineligible for that option. A servicer may not stop collecting documents and information for any loss mitigation option based solely upon the borrower's stated preference but may stop collecting documents and information for any loss mitigation option based on the borrower's stated preference in conjunction with other information, as prescribed by any requirements established by the owner or assignee. A servicer must continue to exercise reasonable diligence to obtain documents and information from the borrower that the servicer requires to evaluate the borrower as to all other loss mitigation options available to the borrower. For example:

i. Assume a particular loss mitigation option is only available for borrowers whose mortgage loans were originated before a specific date. Once a servicer receives documents or information confirming that a mortgage loan was originated after that date, the servicer may stop collecting documents or information from the borrower that the servicer would use to evaluate the borrower for that loss mitigation option, but the servicer must continue its efforts to obtain documents and information from the borrower that the servicer requires to evaluate the borrower for all other available loss mitigation options.

ii. Assume applicable requirements established by the owner or assignee of the mortgage loan provide that a borrower is ineligible for home retention loss mitigation options if the borrower states a preference for a short sale and provides evidence of another applicable hardship, such as military Permanent Change of Station orders or an employment transfer more than 50 miles away. If the borrower indicates a preference for a short sale or, more generally, not to retain the property, the servicer may not stop collecting documents and information from the borrower pertaining to available home retention options solely because the borrower has indicated such a preference, but the servicer may stop collecting such documents and information once the servicer receives information confirming that the borrower has an applicable hardship under requirements established by the owner or assignee, such as military Permanent Change of Station orders or employment transfer.

2. *When an inquiry or prequalification request becomes an application.* A servicer is encouraged to provide borrowers with information about loss mitigation programs. If in giving

information to the borrower, the borrower expresses an interest in applying for a loss mitigation option and provides information the servicer would evaluate in connection with a loss mitigation application, the borrower's inquiry or prequalification request has become a loss mitigation application. A loss mitigation application is considered expansively and includes any "prequalification" for a loss mitigation option. For example, if a borrower requests that a servicer determine if the borrower is "prequalified" for a loss mitigation program by evaluating the borrower against preliminary criteria to determine eligibility for a loss mitigation option, the request constitutes a loss mitigation application.

3. *Examples of inquiries that are not applications.* The following examples illustrate situations in which only an inquiry has taken place and no loss mitigation application has been submitted:

i. A borrower calls to ask about loss mitigation options and servicer personnel explain the loss mitigation options available to the borrower and the criteria for determining the borrower's eligibility for any such loss mitigation option. The borrower does not, however, provide any information that a servicer would consider for evaluating a loss mitigation application.

ii. A borrower calls to ask about the process for applying for a loss mitigation option but the borrower does not provide any information that a servicer would consider for evaluating a loss mitigation application.

4. Although a servicer has flexibility to establish its own requirements regarding the documents and information necessary for a loss mitigation application, the servicer must act with reasonable diligence to collect information needed to complete the application. A servicer must request information necessary to make a loss mitigation application complete promptly after receiving the loss mitigation application. Reasonable diligence for purposes of § 1024.41(b)(1) includes, without limitation, the following actions:

i. A servicer requires additional information from the applicant, such as an address or a telephone number to verify employment; the servicer contacts the applicant promptly to obtain such information after receiving a loss mitigation application;

ii. Servicing for a mortgage loan is transferred to a servicer and the borrower makes an incomplete loss mitigation application to the transferee servicer after the transfer; the transferee

servicer reviews documents provided by the transferor servicer to determine if information required to make the loss mitigation application complete is contained within documents transferred by the transferor servicer to the servicer; and

iii. A servicer offers a borrower a short-term payment forbearance program or a short-term repayment plan based on an evaluation of an incomplete loss mitigation application and provides the borrower the written notice pursuant to § 1024.41(c)(2)(iii). If the borrower remains in compliance with the short-term payment forbearance program or short-term repayment plan, and the borrower does not request further assistance, the servicer may suspend reasonable diligence efforts until near the end of the payment forbearance program or repayment plan. However, if the borrower fails to comply with the program or plan or requests further assistance, the servicer must immediately resume reasonable diligence efforts. Near the end of a short-term payment forbearance program offered based on an evaluation of an incomplete loss mitigation application pursuant to § 1024.41(c)(2)(iii), and prior to the end of the forbearance period, if the borrower remains delinquent, a servicer must contact the borrower to determine if the borrower wishes to complete the loss mitigation application and proceed with a full loss mitigation evaluation.

5. *Information not in the borrower's control.* A loss mitigation application is complete when a borrower provides all information required from the borrower notwithstanding that additional information may be required by a servicer that is not in the control of a borrower. For example, if a servicer requires a consumer report for a loss mitigation evaluation, a loss mitigation application is considered complete if a borrower has submitted all information required from the borrower without regard to whether a servicer has obtained a consumer report that a servicer has requested from a consumer reporting agency.

* * * * *

Russell Vought,

Acting Director, Consumer Financial Protection Bureau.

[FR Doc. 2025-08643 Filed 5-15-25; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2024-2588; **Airspace**
Docket No. 24-AGL-17]

RIN 2120-AA66

Amendment of Jet Routes J-26, J-64 and J-181, and VOR Federal Airways V-10 and V-156; and Revocation of VOR Federal Airway V-262 in the Vicinity of Bradford, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Jet Routes J-26, J-64, and J-181, and Very High Frequency Omnidirectional Range (VOR) Federal Airways V-10 and V-156; and revokes VOR Federal Airway V-262. The FAA is taking this action due to the planned decommissioning of the VOR portion of the Bradford, IL (BDF), VOR/Tactical Air Navigation (VORTAC) navigational aid (NAVAID). The Bradford VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, August 7, 2025. 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 each day, 365 days each year.

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

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the National Airspace System (NAS) as necessary to preserve the safe and efficient flow of air traffic.

History

The FAA published an NPRM for Docket No. FAA-2024-2588 in the **Federal Register** (89 FR 97572; December 9, 2024), proposing to amend Jet Routes J-26, J-64, and J-181, and VOR Federal Airways V-10 and V-156; and revoke VOR Federal Airway V-262 due to the planned decommissioning of the VOR portion of the Bradford, IL, VORTAC NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Incorporation by Reference

Jet Routes are published in paragraph 2004 and VOR Federal Airways are published in paragraph 6010(a) of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11J is publicly available as listed in the **ADDRESSES** section of this document.

FAA Order JO 7400.11J lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by amending Jet Routes J-26, J-64, and J-181, and VOR Federal Airways V-10 and V-156; and revoking VOR Federal Airway V-262 due to the planned decommissioning of the VOR portion of the Bradford, IL, VORTAC NAVAID. The Air Traffic Service (ATS) route actions are described below.

J-26: Prior to this final rule, J-26 extended between the Ciudad Juarez, Mexico, VOR/Distance Measuring Equipment (VOR/DME) and the Joliet, IL, VOR/DME. The airspace within Mexico was excluded. The route segment between the Kirksville, MO, VORTAC and the Joliet VOR/DME is removed. As amended, the route is changed to now extend between the Ciudad Juarez, Mexico, VOR/DME and the Kirksville VORTAC. The airspace within Mexico remains excluded.

J-64: Prior to this final rule, J-64 extended between the Los Angeles, CA, VORTAC and the Hill City, KS, VORTAC; and between the Lamoni, IA, VOR/DME and the intersection of the Ravine, PA, VORTAC 102° and Lancaster, PA, VOR/DME 044° radials (SARAA Fix). The route segment between the Lamoni VOR/DME and the Fort Wayne, IN, VORTAC is removed. As amended, the route is changed to now extend between the Los Angeles VORTAC and the Hill City VORTAC, and between the Fort Wayne VORTAC and the intersection of the Ravine VORTAC 102° and Lancaster VOR/DME 044° radials (SARAA Fix).

J-181: Prior to this final rule, J-181 extended between the Ranger, TX, VORTAC and the Okmulgee, OK, VOR/DME; and between the Hallsville, MO, VORTAC and the Bradford, IL, VORTAC. The route segment between the Hallsville VORTAC and the Bradford VORTAC is removed. As amended, the route is changed to now extend between the Ranger VORTAC and the Okmulgee VOR/DME.

V-10: Prior to this final rule, V-10 extended between the Pueblo, CO, VORTAC and the intersection of the Bradford, IL, VORTAC 058° and Joliet, IL, VOR/DME 287° radials (PLANO Fix); and between the intersection of the Chicago Heights, IL, VORTAC 358° and Gipper, MI, VORTAC 271° radials (NILES Fix) and the Gipper VORTAC. The airway segment between the Burlington, IA, VOR/DME and the intersection of the Bradford VORTAC 058° and Joliet VOR/DME 287° radials (PLANO Fix) is removed. Additionally, the legacy airway floor altitude information in the description between the Pueblo VORTAC and the Lamar, CO, VOR/DME route points is removed. As amended, the airway is changed to now extend between the Pueblo VORTAC and the Burlington VOR/DME, and between the intersection of the Chicago Heights VORTAC 358° and Gipper VORTAC 271° radials (NILES Fix) and the Gipper VORTAC.

V-156: Prior to this final rule, V-156 extended between the Cedar Rapids, IA, VOR/DME and the Peotone, IL,

VORTAC. The airway segment between the Moline, IL, VOR/DME and the Peotone VORTAC is removed. As amended, the airway is changed to now extend between the Cedar Rapids VOR/DME and the Moline VOR/DME.

V-262: Prior to this final rule, V-262 extended between the Peoria, IL, VORTAC and the Joliet, IL, VOR/DME. The airway is removed in its entirety.

All NAVAID radials listed in the ATS route descriptions in the regulatory text of this final rule are unchanged and stated in degrees True north.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action amending Jet Routes J-26, J-64, and J-181, and VOR Federal Airways V-10 and V-156; and revoking VOR Federal Airway V-262 due to the planned decommissioning of the VOR portion of the Bradford, IL, VORTAC NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have

a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11], Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 2004 Jet Routes.

* * * * *

J-26 [Amended]

From Ciudad Juarez, Mexico; El Paso, TX; INT El Paso 070° and Chisum, NM, 215° radials; Chisum; Panhandle, TX; Mitbee, OK; Wichita, KS; Kansas City, MO; to Kirksville, MO. The airspace within Mexico is excluded.

* * * * *

J-64 [Amended]

From Los Angeles, CA; INT Los Angeles 083° and Hector, CA, 226° radials; Hector; Peach Springs, AZ; Tuba City, AZ; Rattlesnake, NM; Pueblo, CO; to Hill City, KS. From Fort Wayne, IN; Ellwood City, PA; Ravine, PA; to INT Ravine 102° and Lancaster, PA, 044° radials.

* * * * *

J-181 [Amended]

From Ranger, TX; to Okmulgee, OK.

* * * * *

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V-10 [Amended]

From Pueblo, CO; Lamar, CO; Garden City, KS; Dodge City, KS; Hutchinson, KS; Emporia, KS; INT Emporia 063° and Napoleon, MO, 243° radials; Napoleon; Kirksville, MO; to Burlington, IA. From INT

Chicago Heights, IL, 358° and Gipper, MI, 271° radials; to Gipper.

* * * * *

V-156 [Amended]

From Cedar Rapids, IA; to Moline, IL.

* * * * *

V-262 [Removed]

* * * * *

Issued in Washington, DC, on May 12, 2025.

Brian Eric Konie,

Manager (A), Rules and Regulations Group.

[FR Doc. 2025-08738 Filed 5-15-25; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2025-0156]

RIN 1625-AA08

Special Local Regulation, East River, Mathews, Virginia

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for certain waters on the East River in Mathews, VA. This action is necessary to provide for the safety of life on these navigable waters during an annual event, the “Mathews Wharf to Wharf Swim.” This regulation prohibits persons and vessels from entering the regulated area unless authorized by the Captain of the Port, Sector Virginia or a designated representative.

DATES: This rule is effective June 16, 2025.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2025-0156 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LCDR Justin Strassfield, Sector Virginia, Waterways Management Division, U.S. Coast Guard, Telephone: (571) 608-2969; or virginiawaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations

COTP Captain of the Port, Sector Virginia

DHS Department of Homeland Security
FR Federal Register
PATCOM Patrol Commander
§ Section
SLR Special Local Regulation
U.S.C. United States Code

II. Background Information and Regulatory History

On January 2, 2025, the Coast Guard received a request, under 33 CFR 100.15, from the Mathews Outdoor Club, for a Marine Event Permit to host a 1-mile long, open water swim to be held on August 16, 2025, from 10 a.m. until noon, in Mathews, VA. The club has indicated that it plans to host this swim annually thereafter, on the third Saturday of August. The open water swim will include approximately 50 participants and 10 spectator craft.

In response, on April 7, 2025, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation, East River, Mathews, Virginia (90 FR 14933). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 7, 2025, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority in 46 U.S.C. 70041. The Captain of the Port Sector Virginia (COTP) has determined that potential hazards associated with the open water swim include the possibility that participants swimming within the navigable channel might collide with or otherwise interfere with vessels operating in the channel, as well as the possibility that participants swimming within approaches to local public and private boat facilities might collide with or otherwise interfere with boaters near those facilities. The purpose of this rulemaking is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event by promulgating a SLR for the annual event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 7, 2025. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This SLR is subject to enforcement annually, from 9 a.m. to 1 p.m. on the third Saturday of August. There is no alternate day planned for this event. Section 100.501 provides, however, that, in the case of inclement weather or other just cause found by the respective

COTP, an event may be conducted within 30 days before or after the date(s) identified in the SLR. See 33 CFR 100.501(g).

The regulated area is located on the East River, in the vicinity of Williams Wharf Landing, in Mathews, VA., on a designated, marked course between Hick’s Wharf, and it continues across the East River, to the coastline directly across from Williams Wharf. The coordinates of the regulated area are provided in the language of the rule, provided below. The regulated area is approximately 760 yards in length and 700 yards in width. The enforcement period for the rule and the size of the regulated area were chosen to ensure the safety of life on these navigable waters before, during, and after the open water swim scheduled from 10 a.m. to 12 p.m. on the third Saturday of August annually. As provided in 33 CFR 100.501(d)(1), the COTP and Coast Guard Event Patrol Commander (PATCOM) have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. No vessel or person is permitted to enter the regulated area without obtaining permission from the COTP or Event PATCOM. The regulatory text appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration and time of day of the regulated area. Vessel traffic on a small portion of the East River will be minimally impacted for 4 hours on a single Saturday annually, and this rule will allow vessel traffic wishing to pass within the regulated area to seek permission to enter the zone. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The

Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a regulated area on certain waters of the East River that would prohibit entry without permission from the designated PATCOM or COTP. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01.

List of Subjects in 30 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 1. The authority citation for part 100 continues to read as follows:
Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.
- 2. In § 100.501, amend Table 3 to paragraph (i)(3), by adding an entry, in alphabetical order, for “Mathews Wharf to Wharf Swim,” to read as follows:

§ 100.501 Special Local Regulations; Marine Events Within the Fifth Coast Guard District.

- * * * * *
- (i) * * *
- (3) * * *

TABLE 3 TO PARAGRAPH (i)(3)

Event	Regulated area	Enforcement ¹ period	Sponsor
* Mathews Wharf to Wharf Swim.	* All navigable waters encompassed by the following points, in Mathews, Virginia: beginning at Hick’s Wharf at latitude 37°24’34” N, longitude 076°20’56” W, thence east across the East River to latitude 37°24’34” N, longitude 076°20’37” W, thence south encompassing all shoreline to Williams Wharf at latitude 37°24’13” N, longitude 076°20’ 49”, thence west back across the East River to latitude 37°24’14” N, longitude 076°21’08” W, thence north along the shoreline to the point of origin.	* Third Saturday in August.	* Mathews Outdoor Club.
* 	* 	* 	*

Dated: May 8, 2025.

Peggy M. Britton,

Captain, U.S. Coast Guard, Captain of the Port, Sector Virginia.

[FR Doc. 2025–08764 Filed 5–15–25; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Optional 5-Digit/3-Digit/ADC Sortation

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is amending *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) in sections 235 and 240 to change the standards for First Class Mail and USPS Marketing Mail flats from a “required” 5-digit/scheme, 3-digit, and ADC preparation to an “optional” preparation.

DATES: *Effective Date:* July 13, 2025.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at (202) 268–6592 or Doriane Harley at (202) 268–2537.

SUPPLEMENTARY INFORMATION: The Postal Service is revising the standards in DMM sections 235 and 240 to make the 5-digit/scheme, 3-digit, and ADC preparation “optional” when preparing bundles and trays of First Class Mail and USPS Marketing Mail flats. These changes will be effective on July 13, 2025.

Comments on Proposed changes and USPS responses:

The Postal Service received four formal comments on the February 5, 2025 proposed rule.

- *Comment:* One commenter requested pricing clarification for loose flats in flat trays.

Response: The Postal Service has added those changes into the final revisions below.

- *Comment:* One commenter suggested that revisions be made to co-traying standards for USPS Marketing Mail flats.

Response: The Postal Service has added those changes in the final revisions below.

- *Comment:* Three commenters expressed support for changes and believe that the result will produce more full trays, fewer bundles, and cost reductions for the USPS and mailers.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

Mailing

Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

200 Commercial Letters, Cards, Flats, and Parcels

* * * * *

230 Commercial Mail First-Class Mail

* * * * *

235 Mail Preparation

* * * * *

7.0 Preparation of Nonautomation Flats

* * * * *

7.4 Bundling and Labeling

* * * * *

[Revise the text of items (a) through (c) to read as follows:]

a. 5-digit (optional); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (optional); 10-piece minimum; green Label 3 or OEL.

c. ADC (optional); 10-piece minimum; pink Label A or OEL.

* * * * *

7.5 Traying and Labeling

* * * * *

[Revise the first paragraph of item (a) to read as follows:]

a. 5-digit (optional); full trays (no overflow); labeling: * * *

[Revise the first paragraph of item (b) to read as follows:]

b. 3-digit (optional); full trays (no overflow), except for one less-than-full tray for each origin 3-digit(s); labeling: * * *

[Revise the first paragraph of item (c) to read as follows:]

c. ADC (optional); full trays (no overflow); labeling: * * *

* * * * *

8.0 Preparation of Automation Flats

* * * * *

8.5 First-Class Mail Required Bundle-Based Preparation

8.5.1 Bundling and Labeling

Preparation sequence, bundle size (except as allowed under 203.4.12), and labeling:

* * * * *

[Revise the text of items (b) through (d) to read as follows:]

b. 5-digit (optional); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

c. c. 3-digit (optional); 10-piece minimum; green Label 3 or OEL.

d. d. ADC (optional); 10-piece minimum; pink Label A or OEL.

* * * * *

8.5.2 Traying and Labeling

Preparation sequence, tray size, and labeling:

* * * * *

[Revise the first paragraph of item (a) to read as follows:]

a. 5-digit (optional); full trays (no overflow); labeling: * * *

[Revise the first paragraph of item (b) to read as follows:]

b. 3-digit (optional); full trays (no overflow); labeling: * * *

* * * * *

[Revise the first paragraph of item (d) to read as follows:]

d. ADC (optional); full trays (no overflow); labeling: * * *

* * * * *

8.6 First-Class Mail Optional Tray-Based Preparation

Tray size, preparation sequence, and Line 1 labeling:

* * * * *

[Revise the text of item (a) to read as follows:]

a. 5-digit: optional (90-piece minimum); one less-than-full or overflow tray allowed; for Line 1, use city, state, and 5-digit ZIP Code destination of pieces (for military mail see 4.0). (Preparation to qualify for 5-digit price is optional and need not be done for all 5-digit destinations.)

[Revise the text of item (b) to read as follows:]

b. 3-digit: optional (90-piece minimum); one less-than-full or overflow tray allowed; for Line 1, use L002, Column A for 3-digit destinations.

* * * * *

[Revise the first sentence of item (d) to read as follows:]

d. ADC: optional (90-piece minimum); one less-than-full or overflow tray

allowed; group pieces by 3-digit ZIP Code prefix; for Line 1, use L004. * * *

240 Commercial Mail USPS Marketing Mail

* * * * *

243 Prices and Eligibility

* * * * *

5.0 Additional Eligibility Standards for Nonautomation USPS Marketing Mail Letters, Flats, and Presorted USPS Marketing Mail Parcels

* * * * *

5.6 Nonautomation Price Application—Flats

5.6.1 5-Digit Prices for Flats

The 5-digit price applies to flat-size pieces:

* * * * *

[Add an item (d) to read as follows:]

d. Placed unbundled in a full 5-digit flat tray under 203.4.4.

* * * * *

5.6.3 3-Digit Prices for Flats

The 3-digit price applies to flat-size pieces:

* * * * *

[Revise item (c) to read as follows:]

c. Placed unbundled in a full 3-digit flat tray under 203.4.4.

* * * * *

5.6.5 ADC Prices for Flats

ADC prices apply to flat-size pieces:

* * * * *

[Add an item (d) to read as follows:]

d. Placed unbundled in a full ADC flat tray under 203.4.4.

* * * * *

7.0 Eligibility Standards for Automation USPS Marketing Mail

* * * * *

7.5 Price Application for Automation Flats

Automation prices apply to each piece properly sorted into qualifying groups:

[Revise the text of items (a) through (c) to read as follows:]

a. The 5-digit price applies to flat-size pieces in a 5-digit/scheme bundle of 10 or more pieces, as applicable. The 5-digit price also applies to unbundled flats placed in 5-digit flat trays under 203.4.4.

b. The 3-digit price applies to flat-size pieces in a 3-digit/scheme bundle of 10 or more pieces. The 3-digit price also applies to unbundled flats placed in 3-digit flat trays under 203.4.4.

c. The ADC price applies to flat-size pieces in an ADC bundle of 10 or more pieces. The ADC price also applies to unbundled flats placed in ADC flat trays under 203.4.4.

* * * * *

245 Mail Preparation

* * * * *

8.0 Preparing Nonautomation Flats

* * * * *

8.3 Bundling and Labeling

* * * * *

[Revise the introductory paragraph of item (b) to read as follows:]

b. 5-digit (optional), see definition in 1.4j: * * *

* * * * *

[Revise the text of items (d) and (e) to read as follows:]

d. 3-digit (optional), see definition in 1.4o; 10-piece minimum; green Label 3 or OEL.

e. ADC (optional); 10-piece minimum; pink Label A or OEL.

* * * * *

8.6 Traying, Sacking, and Labeling

* * * * *

[Revise the first paragraph of item (a) to read as follows:]

a. 5-digit/scheme; (optional), only for pieces meeting the automation flats criteria in 201.6.0, see definition in 1.4h; full flat tray; 125-piece, or 15-pound minimum; labeling: * * *

[Revise the first paragraph of item (b) to read as follows:]

b. 3-digit (optional); full flat tray; 125-piece, or 15-pound minimum; labeling: * * *

* * * * *

* * * * *

[Revise the first paragraph of item (d) to read as follows:]

d. ADC (optional); full flat tray; 125-piece, or 15-pound minimum; labeling: * * *

* * * * *

* * * * *

10.0 Preparing Automation Flats

* * * * *

10.4 USPS Marketing Mail Bundle and Flat-Tray Preparation

10.4.1 Bundling and Labeling

* * * * *

[Revise the first paragraph of (a) to read as follows:]

a. 5-digit scheme (optional); see definition in 1.4g: * * *

[Revise the first paragraph of (b) to read as follows:]

b. 5-digit presort (optional); see definition in 1.4g: * * *

[Revise text of items (c) through (e) to read as follows:]

c. 3-digit scheme (optional); see definition in 1.4p; 10-piece minimum; green Label 3 SCH or OEL.

d. 3-digit presort (optional); see definition in 1.4n; 10-piece minimum; green Label 3 or OEL.

e. ADC (optional); 10-piece minimum; pink Label A or OEL.

* * * * *

10.4.3 Traying, Sacking, and Labeling

* * * * *

[Revise the first paragraph of item (a) to read as follows:]

a. 5-digit/scheme; (optional), see definition in 1.4h; full flat tray, 125-piece, or 15-pound minimum; labeling: * * *

[Revise the first paragraph of item (b) to read as follows:]

b. 3-digit (optional); full flat tray, 125-piece or 15-pound minimum; labeling: * * *

* * * * *

* * * * *

[Revise the first paragraph of item (d) to read as follows:]

d. ADC (optional); full flat tray, 125-piece, or 15-pound minimum; labeling: * * *

* * * * *

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

9.0 Combining Bundles of Automation and Nonautomation Flats in Flat Trays and Sacks

* * * * *

9.3 USPS Marketing Mail

* * * * *

9.3.5 Flat Tray/Sack Preparation and Labeling

* * * * *

[Revise the first paragraph of item (a) to read as follows:]

a. 5-digit/scheme; optional; scheme sort required only for pieces meeting the automation-compatibility criteria in 201.6.0; full tray/125-piece/15-pound minimum; labeling: * * *

[Revise the first paragraph of item (b) to read as follows:]

b. 3-digit, optional, full tray/125-piece/15-pound minimum; labeling: * * *

[Revise the first paragraph of item (d) to read as follows:]

d. ADC, optional, full tray/125-piece/15-pound minimum; use L004 to

determine ZIP Codes served by each ADC; labeling: * * *

* * * * *

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2025–08691 Filed 5–15–25; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 401, 405, 410, 411, 414, 423, 424, 425, 427, 428, and 491

[CMS–1807–F2 and CMS–4204–F3]

RINs 0938–AV33 and 0938–AV16

Medicare and Medicaid Programs; CY 2025 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Prescription Drug Inflation Rebate Program; and Medicare Overpayments; and Appeal Rights for Certain Changes in Patient Status; Corrections and Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rules; corrections and correcting amendment.

SUMMARY: This document corrects technical and typographical errors in the final rule that appeared in the December 9, 2024 **Federal Register** titled “Medicare and Medicaid Programs; CY 2025 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Prescription Drug Inflation Rebate Program; and Medicare Overpayments” (hereinafter referred to as the “CY 2025 PFS final rule”). The effective date was January 1, 2025. It also corrects a technical error in the final rule correcting amendment that appeared in the December 30, 2024, **Federal Register** titled “Medicare Program: Appeal Rights for Certain Changes in Patient Status and Changes to the Medicare Claims and Medicare Prescription Drug Coverage Determination Appeals Procedures; Correcting Amendment”.

DATES:

Effective date: The corrections and correcting amendment are effective May 16, 2025.

Applicability date: The CY 2025 PFS final rule corrections indicated in this document are applicable beginning January 1, 2025.

FOR FURTHER INFORMATION CONTACT:

MedicarePhysicianFeeSchedule@

cms.hhs.gov, for any issues not identified below. Please indicate the specific issue in the subject line of the email.

MedicarePhysicianFeeSchedule@cms.hhs.gov, for the following issues: digital mental health treatment (DMHT), certification of therapy plans of care with a physician or NPP order, telehealth, continuous glucose monitoring, and estimated impacts by specialty.

Michele Franklin, (410) 786–9226, or RHC@cms.hhs.gov for issues related to RHC payments.

Sabrina Ahmed, (410) 786–7499, or SharedSavingsProgram@cms.hhs.gov, for issues related to the Medicare Shared Savings Program (Shared Savings Program) Quality performance standard and quality reporting requirements.

Janae James, (410) 786–0801, or SharedSavingsProgram@cms.hhs.gov, for issues related to Shared Savings Program benchmarking methodology.

Rachel Radzyner, (410) 786–8215 for issues related to Part B for preventive services, including payment for COVID–19 vaccination.

Elisabeth Daniel, (667) 290–8793, for issues related to the Medicare Prescription Drug Inflation Rebate Program.

Amy Gruber, (410) 786–1542, for issues related to low titer O+ whole blood transfusion therapy during ground ambulance transport.

Trevey Davis, (667) 290–8527, for issues related to Alternative Payment Models (APMs).

Aucha Prachanronarong, (410) 786–1879, for inquiries related to the Merit-based Incentive Payment System (MIPS) track of the Quality Payment Program.

Kristy Nishimoto, (206) 615–2367, for issues related to the Appeal Rights for Certain Changes in Patient Status.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2024–25382 of December 9, 2024, the CY 2025 PFS final rule (89 FR 97710), there were technical and typographical errors that are identified and corrected in this correcting amendment. These corrections are applicable as if they had been included in the CY 2025 PFS final rule, which was effective January 1, 2025.

In FR Doc. 2024–31146 of December 30, 2024 (89 FR 106362), in the final rule correcting amendment titled “Medicare Program: Appeal Rights for Certain Changes in Patient Status and Changes to the Medicare Claims and Medicare Prescription Drug Coverage Determination Appeals Procedures; Correcting Amendment” (hereinafter referred to as the Medicare Appeals Correcting Amendment) there is a technical error associated with the amendatory instructions for regulation text that is identified and corrected in this correcting amendment. The Medicare Appeals Correcting Amendment corrected errors in the October 15, 2024 final rule (89 FR 83240).

II. Summary of Errors

A. Summary of Errors in the CY 2025 Physician Fee Schedule Final Rule

1. Summary of Errors in the Preamble

On page 97767, we inadvertently made a typographical error in the 2025 Facility Fee for Q3014.

On page 97804, we inadvertently mischaracterized a public comment submitted in response to the CY 2025 PFS proposed rule (89 FR 61596).

On page 97913, we made a typographical error in the preamble in referring to a section of Pub. 100–02, chapter 15.

On page 97917, we inadvertently made a typographical error in response to a public comment.

On page 97925, we inadvertently included a reference to the “FD&C Act”.

On page 97927, we inadvertently mischaracterized State authority as State “prescriptive authority”.

On page 98078, we inadvertently provided an incomplete and incorrect description of the monthly dosing intervals for Sublocade® and Brixadi®.

On page 98103, we inadvertently included an incorrect description of the number of measures for performance year 2025 under our proposal to adopt the APP Plus quality measure set and after the CMS Web Interface sunsets, compared to the number of measures reported in performance year 2024.

On page 98113, we inadvertently made an error in the description of the heading in the final regulation text at 42 CFR 425.512(a)(7).

On page 98118, we inadvertently included an incorrect Quality # for the Controlling High Blood Pressure measure.

On pages, 98119, 98121, 98128, 98129, 98130, and 98131 we inadvertently included a former measure title for Quality #: 001.

On pages 98128 and 98164, we made typographical errors in table numbers.

On page 98217, we inadvertently made typographical errors.

On page 98229, we inadvertently made a typographical error in the discussion of the proposed policies for the Medicare Part B Drug Inflation Rebate Program.

On page 98244, we inadvertently stated the term for “Billing and payment code FDA approval or licensure date” is defined in the regulations text at § 427.302(c).

On page 98248, 98253, 98258, 98263, 98264, 98265, 98266, 98268, 98271, 98296, 98306, 98307, and 98308, we made technical errors in section references.

On page 98251, we inadvertently included language indicating we proposed to codify a policy at § 427.303(b)(4) and inadvertently made a typographical error.

On pages 98257, 98261, 98262, 98298, and 98301, we inadvertently made technical errors in table references.

On page 98262, we inadvertently omitted language from an explanation about “Example 1” in Table 59 due to a drafting error.

On page 98266, we inadvertently made technical errors in the discussion of the statutory preclusion of administrative or judicial review on the determination of units.

On page 98269, we inadvertently omitted a section reference and made a technical error in the discussion of the reconciliation process.

On page 98278, we inadvertently made a typographical error in our comment response regarding the definitions of “line extension” and “new formulation”.

On page 98278, we inadvertently made technical errors in terminology in our discussion of the calculation of the total Part D drug rebate amount.

On page 98279, we inadvertently made a technical error in terminology to the section heading and text in our discussion of the calculation of the per unit Part D drug rebate amount.

On page 98284, we inadvertently made a typographical error in our comment response regarding how CMS will determine whether an NDC–9 represents a new NDC–9 of a Part D rebatable drug.

On page 98287, we inadvertently made a technical error in terminology in our discussion of the calculation of the inflation adjusted payment amount and situations in which manufacturers do not report units to the Medicaid Drug Rebate Program.

On page 98306, we inadvertently made a typographical error in our

discussion of the Preliminary Rebate Report.

On page 98308, we inadvertently made a typographical error in our discussion of the multi-step process to provide each manufacturer of a Part D rebatable drug with a reconciled rebate amount on a regular basis.

On page 98310, we inadvertently made errors in several section references and a technical error in terminology used in our discussion of data elements included in Rebate Reports.

On page 98311, we inadvertently made a typographical error in our discussion of Rebate Reports for the applicable periods beginning October 1, 2022, and October 1, 2023.

On page 98312, we inadvertently made a typographical error in our discussion of severability.

On page 98332, we inadvertently made a typographical error.

On pages 98358, 98366, 98367, 98368, 98369, and 98370, we inadvertently included a former measure title for Quality #001.

On pages 98369, 98370, and 98371, we inadvertently omitted previously finalized and available measure collection types.

On page 98408, in Table 75, we inadvertently made a typographical error regarding the previously established and finalized Case Minima for the Total Per Capita Cost measure.

On page 98434, we inadvertently included a measure that was finalized for removal starting in the CY 2025 performance period.

On pages 98468 and 98469, we inadvertently made typographical errors in our discussion of the estimate of total annual burden for the ICR for rebate reduction requests and for rebate reduction extension requests.

On page 98474, we inadvertently reference a measure by its former title.

On page 98479, in Table 96, we inadvertently made typographical errors referencing MIPS quality measure counts and in a column header and in the number of MIPS CQMs specifications removed for CY 2025.

On page 98493, we inadvertently made several technical errors in the Quality Payment Program row (second row) and the TOTAL row (fourth row) of Table 107, which summarized the annual burden estimates of the finalized provisions subject to the Paperwork Reduction Act of 1995. While two figures are incorrect in the sixth and eighth columns in the second row, they were set forth correctly on pages 98470, 98472, and 98547 in the CY 2025 PFS final rule. The figures reflecting the totals of the third, fourth, sixth, and

eighth columns of the fourth row are incorrect.

On page 98494, we inadvertently made a typographical error in our discussion of the inflation rebate provisions for purposes of the regulatory impact analysis.

On page 98495, we inadvertently made a typographical error in the summary discussion of the effective date of the removal of RHCs productivity standards.

On page 98508, we inadvertently neglected to update the expected percentage changes in total RVUs per practitioner to reflect the public use file published with the CY 2025 PFS final rule.

On page 98518, we inadvertently made a typographical error in our regulatory impact analysis discussion of the effective date of the removal of RHCs productivity standards.

On page 98528, we inadvertently made a typographical error in our discussion of the inflation rebate provisions for purposes of the regulatory impact analysis.

On pages 98547 and 98548, regarding incremental estimated burden from associated final policies set forth in Table 128, we inadvertently included duplicative rows containing incorrect section references (that is, rows 10 through 19). In section IV. of this correcting document, we provide a corrected Table 128.

On pages 98549 and 98550, we inadvertently made typographical errors in reference to the first MIPS performance period available for two measures in the APP Plus quality measure set, an error in reference to a MIPS collection type, and we inadvertently made a typographical error in a citation.

2. Summary of Errors in the Regulations Text

On page 98582 at § 427.302, there is a technical error in the regulation heading for Calculation of the per unit Part B drug rebate amount.

On page 98582 at § 427.302, we inadvertently omitted a word in the discussion of the identification of the payment amount benchmark quarter.

On page 98585 at § 427.401(b)(2)(iv), in the regulation text for “Reducing the rebate amount for Part B rebatable drugs currently in shortage”, we inadvertently made a technical error.

On page 98587 at § 427.501(d)(1)(i), we inadvertently included one erroneous section reference and made a technical error in the discussion of the preliminary reconciliation.

On page 98590 at § 428.202, in the regulation heading for “Calculation of

the per unit Part D drug rebate amount” and in paragraph (a), we inadvertently made a technical error in terminology.

On page 98593 at § 428.204, in the introductory text for “Treatment of new formulations of Part D rebatable drugs,” we inadvertently made errors in section references.

On page 98593 in § 428.204(b), we inadvertently made a technical error in terminology.

On page 98594, in § 428.301(b)(2)(iv), in the regulation text for “Reducing the rebate amount for Part D rebatable drugs currently in shortage”, we inadvertently made a technical error.

3. Summary and Corrections of Errors in the Addenda on the CMS Website

In Addendum B, due to a typographical error, the Global indicator for HCPCS code G0560 was incorrect. Therefore in Addendum B, column L, row 13679, the Global indicator for HCPCS code G0560 that reads “ZZZ” is corrected to read “XXX.”

B. Summary of Errors in the December 30, 2024 Final Rule Correcting Amendment

In the amendatory instructions for § 405.1210, we made an error regarding paragraph (b)(3). The amendment instruction indicated that we were adding paragraph (b)(3) instead of revising paragraph (b)(3). Because of this error, OFR included an editorial note in the electronic Code of Federal Regulations (eCFR) for § 405.1210 stating that the paragraph could not be incorporated due to the inaccurate amendatory instruction. Therefore, we are correcting the amendatory instruction and providing the revised regulatory text.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (the APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment, and delay in effective date requirements; in cases in which these exceptions apply, sections

1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and includes a statement of the finding and the reasons for it in the rule. In addition, section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the agency includes in the rule a statement of the finding and the reasons for it.

In our view, this correcting amendment does not constitute a rulemaking that would be subject to these requirements. This document merely corrects technical and typographical errors in the CY 2025 PFS final rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were proposed, subject to notice and comment procedures, and adopted in the CY 2025 PFS final rule. As a result, the corrections made through this correcting amendment are intended to resolve inadvertent errors so that the CY 2025 PFS final rule accurately reflects the policies adopted therein. It also merely corrects a technical error in the Medicare Appeals Correcting Amendment.

In addition, even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the CY 2025 PFS final rule and Medicare Appeals Correcting Amendment or delaying the effective date of the corrections would be contrary to the public interest because it is in the public’s interest for physicians and practitioners to receive appropriate payments in as timely a manner as possible, and to ensure that the CY 2025 PFS final rule accurately reflects our policies as of the date they take effect. Further, such procedures would be unnecessary because we are not making any substantive revisions to the CY 2025 PFS final rule or the Medicare Appeals Correcting Amendment, but rather, we are simply correcting the **Federal Register** documents to reflect the

policies that we previously proposed, received public comment on, and subsequently finalized in the CY 2025 PFS and Medicare Appeals (October 15, 2024) final rules. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

Moreover, even if these corrections were considered to be retroactive rulemaking, they would be authorized under section 1871(e)(1)(A)(ii) of the Act, which permits the Secretary to issue a rule for the Medicare program with retroactive effect if the failure to do so would be contrary to the public interest. As we have explained previously, we believe it would be contrary to the public interest not to implement these corrections because it is in the public’s interest for physicians and practitioners to receive appropriate payments in as timely a manner as possible, and to ensure that the CY 2025 PFS final rule and Medicare Appeals (October 15, 2024) final rule (which was subsequently corrected by Medicare Appeals Correcting Amendment) accurately reflect our policies.

IV. Correction of Errors in the Preamble of the CY 2025 PFS Final Rule

In FR Doc. 2024–25382 of December 9, 2024 (89 FR 97710), make the following corrections:

1. On page 97767, top of the page, in the table titled “Table 13: The Medicare Telehealth Originating Site Facility Fee”, third column (2025 Facility Fee for Q3014), last row, the figure “\$31.04” is corrected to read “\$31.01”.

2. On page 97804, first column, first full and second full paragraphs, the paragraphs “Interested parties submitted a public comment in response to the CY 2025 PFS proposed rule that asked CMS to establish coding and payment similar to CPT codes 0446T and 0448T for services related to a newly FDA approved implantable 365-day continuous glucose monitoring system. The commenter stated that creating new coding will allow for continuity of this service during the manufacturer’s transition from the 180-day monitoring service as described by the current codes, to the new 365-day monitoring service.

“We agree with the commenters request and are establishing two new HCPCS codes to describe services related to the new 365-day monitoring service. Specifically, we are establishing HCPCS code G0564 (Creation of subcutaneous pocket with insertion of 365-day implantable interstitial glucose sensor, including system activation and patient training) and G0565 (removal of implantable interstitial glucose sensor

with creation of subcutaneous pocket at different anatomic site and insertion of new 365-day implantable sensor, including system activation). We believe it is important for beneficiaries to have continued access to this valuable service during the transition from a 180 to 365-day monitoring period. HCPCS codes G0564 and G0565 are contractor priced and effective January 1, 2025. CPT codes 0446T and 0448T should continue to be used to bill for the 180-day continuous glucose monitoring service.” are corrected to read as follows:

Comment: An interested party submitted a public comment in response to the CY 2025 PFS proposed rule requesting that CMS update the existing CPT codes 0446T and 0448T’s direct practice expense inputs to replace a 180-day glucose sensor with an implantable 365-day continuous glucose monitoring system. The commenter indicated that it expected the 365-day continuous glucose monitoring system would receive FDA clearance in September 2024. The commenter stated that updating the direct practice expense inputs would allow for continuity of this service during the manufacturer’s transition from the 180-day monitoring service as described by the current codes, to the new 365-day monitoring service.

Response: While we understand that the commenter requested an update to the existing CPT codes’ direct PE inputs, we note that we did not propose to modify these inputs in the proposed rule. We are establishing two new HCPCS codes to describe services related to the new 365-day monitoring service in anticipation of an expected transition from the 180- to 365-day device. Specifically, we are establishing HCPCS code G0564 (Creation of subcutaneous pocket with insertion of 365-day implantable interstitial glucose sensor, including system activation and patient training) and G0565 (Removal of implantable interstitial glucose sensor with creation of subcutaneous pocket at different anatomic site and insertion of new 365-day implantable sensor, including system activation). We believe it is important for beneficiaries to have continued access to these valuable services during the expected transition from the 180 to 365-day monitoring service. HCPCS codes G0564 and G0565 are contractor priced and effective January 1, 2025. CPT codes 0446T and 0448T should continue to be used to bill for the 180-day continuous glucose monitoring service.”

3. On page 97913, third column, first partial paragraph, lines 3 and 4, the reference, “Pub. 100–02, chapter 15, section 220.1.4.C” is corrected to read

“Pub. 100–02, chapter 15, section 220.1.3.C”.

4. On page 97917, first column, third full paragraph, lines 22 and 23, the phrase “applicable sections of the MBPM, chapter 5” is corrected to read “applicable sections of the MBPM, chapter 15”.

5. On page 97925, third column, fourth full paragraph, lines 3 and 4, the phrase “pathways are inadequate FD&C Act because” is corrected to read “pathways are inadequate because”.

6. On page 97927, first column, first full paragraph, lines 7 and 8, the phrase “in accordance with State prescriptive authority” is corrected to read “in accordance with State authority”.

7. On page 98078, third column, first partial paragraph, lines 19 through 24, the phrase “differences in minimum time between monthly dosing (26 days for Sublocade® versus 28 days for monthly Brixadi®), and differences in buprenorphine half- lives (19–26 days for Sublocade® versus 43–60 days for Brixadi®)” is corrected to read “differences in monthly dosing intervals (26 to 44 days for Sublocade® versus 21 to 35 days for monthly Brixadi®), and differences in buprenorphine half- lives (43 to 60 days for Sublocade® versus 19 to 26 days for Brixadi®)”.

8. On page 98103, third column, first partial paragraph, lines 7 through 11, the phrase “the number of measures reported from ten measures in performance year 2024 to eight measures in performance year 2025 after the CMS Web Interface sunsets.” is corrected to read “the number of measures reported from 11 measures in performance year 2024 to 6 measures in performance year 2025 after the CMS Web Interface sunsets.”.

9. On page 98113, third column, first bulleted paragraph,

a. Lines 1 through 5, the sentence “We are finalizing to add a descriptive heading (“Facility-based scoring”) to § 425.512(a)(7) to more accurately describe the policy at paragraph (a)(7).” is corrected to read “We are not finalizing the addition of a descriptive heading (“Facility-based scoring”) to § 425.512(a)(7) to describe the policy at paragraph (a)(7).”.

b. Lines 9 through 13, the sentence “We are finalizing the heading to read as follows: ‘Shared Savings Program Scoring Policy for Excluded APP Measures and APP Measures That Lack a Benchmark.’” is corrected by removing the sentence.

10. On page 98118, middle of the page, second column, second partial paragraph, lines 4 and 5, the phrase “Quality #: 001 Controlling High Blood Pressure” is corrected to read “Quality

#: 236 Controlling High Blood Pressure”.

11. On page 98119,

a. Top of the page, first column, first partial paragraph, lines 1 and 2, the phrase “Diabetes: Hemoglobin A1c (HbA1c) Poor Control (>9%)” is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

b. Lower two-thirds of the page, first column, first full paragraph, lines 9 and 10, the phrase “Hemoglobin A1c (HbA1c) Poor Control (>9%)” is corrected to read “Glycemic Status Assessment Greater Than 9%”.

12. On page 98121, first column, first partial paragraph, lines 1 through 3, the phrase “Quality #: 001 Diabetes: Hemoglobin A1c (HbA1c) Poor Control (>9%)” is corrected to read “Quality #: 001 Diabetes: Glycemic Status Assessment Greater Than 9%”.

13. On page 98128,

a. Top of the page,

(1) First column, first paragraph, lines 10 and 11, the phrase “Diabetes: Hemoglobin A1c (HbA1c) Poor Control (>9%) (Quality #: 001)” is corrected to read “Diabetes: Hemoglobin A1c (HbA1c) Poor Control (>9%) (renamed to Diabetes: Glycemic Status Assessment Greater Than 9% in this final rule) (Quality #: 001)”.

(2) Third column, first full paragraph, lines 9 through 10, the phrase that reads “Tables 39 through B–42 of this final rule” is corrected to read “Tables 39 through 42 of this final rule.”.

b. Lower half of the page, in the table titled “TABLE 39: Measures Included in the APP Plus Quality Measure Set for Shared Savings Program ACOs for Performance Year 2025”, third row (Quality #001), second column (Measure Title), the entry “Diabetes: Hemoglobin A1c (HbA1c) Poor Control (>9%)” is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

14. On page 98129, in the table titled “TABLE 40: Measures Included in the APP Plus Quality Measure Set for Shared Savings Program ACOs for Performance Year 2026”, fourth row (Quality #001), second column (Measure Title), the entry “Diabetes: Hemoglobin A1c (HbA1c) Poor Control (>9%)” is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

15. On page 98130, in the table titled “TABLE 41: Measures Included in the APP Plus Quality Measure Set for Shared Savings Program ACOs for Performance Year 2027”, fourth row (Quality #001), second column (Measure Title), the entry “Diabetes: Hemoglobin A1c (HbA1c) Poor Control (>9%)” is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

16. On page 98131, in the table titled “TABLE 42: Measures Included in the APP Plus Quality Measure Set for Shared Savings Program ACOs Beginning with Performance Year 2028 or the Performance Year that is one year after the eCQM Specifications become available for Quality IDs: 487 and 493, whichever is later”, fourth row (Quality

001), second column (Measure Title), the entry “Diabetes: Hemoglobin A1c (HbA1c) Poor Control (>9%)” is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

17. On page 98164, first column, first partial paragraph, line 1, the table number “Table D–B7” is corrected to read “Table 115”.

18. On page 98217, in the table titled “TABLE 51: CY 2025 Part B Payments for Preventive Vaccine Administration if the EUA Declaration for Drugs and Biologicals with Respect to COVID–19 Continues into CY 2025,” fifth and sixth rows, the entries are corrected to read as follows:

Category of Part B product administration	Part B payment amount (unadjusted)	Amount update	Geographic adjustment
COVID–19 Monoclonal Antibodies (for Pre-Exposure Prophylaxis): ³⁴ Intravenous Infusion: Health Care Setting	\$450	N/A	GAF

19. On page 98229, first column, second bulleted paragraph, line 9, the phrase “date. Proposed § 427.302(c)(4)” is corrected to read as follows:

“date.

• Proposed § 427.302(c)(4)”.

20. On page 98244, lower two-thirds of the page, first column, last paragraph, lines 33 and 34, the phrase “By defining and referencing the billing and payment” is corrected to read “By referencing the billing and payment”.

21. On page 98248,

a. First column, first full paragraph, line 11, the reference “§ 427.303” is corrected to read “§ 427.303(b)(1)”.

b. Second column, first full paragraph, line 31, the reference “§ 427.303(b)(1)(iii)” is corrected to read “§ 427.303(b)(1)(iv)”.

22. On page 98251, third column, first partial paragraph,

a. Lines 23 through 28, the sentence “We further proposed codifying policy that CMS may consult with the FDA for technical assistance in instances where there is ambiguity as to whether a new product is therapeutically equivalent” is corrected by removing the sentence.

b. Line 29, the phrase “on or” is corrected to read “on and”.

23. On page 98253, second column, third full paragraph, line 13, the reference “§ 427.301” is corrected to read “§ 427.501(b)(1)”.

24. On page 98257, second column, second full paragraph, line 25, the reference “Table 58” is corrected to read “Table 57”.

25. On page 98258, lower half of the page, third column, first full paragraph, line 4, the reference “§ 427.402(a)” is corrected to read “§ 427.402(b)(1)”.

26. On page 98261, third column, first full paragraph, line 36, the reference “Table 59” is corrected to read “Table 58”.

27. On page 98262, lower two-thirds of the page, second column, first partial paragraph,

a. Line 13, the reference “Table 60” is corrected to read “Table 59”.

b. Lines 24 and 25, the phrase “rebate reduction 60 calendar days” is corrected to read “rebate reduction was submitted less than 60 calendar days”.

28. On page 98263, top of the page, third column, first partial paragraph,

a. Line 10, the reference

“§ 427.401(b)(4)(iii)” is corrected to read “§ 427.401(b)(2)(iii)”.

b. Line 22, the reference “(b)(4)(iv)” is corrected to read “(b)(2)(iv)”.

29. On page 98264, first column, third full paragraph, line 9, the reference “§ 427.501(c)(1)” is corrected to read “§ 427.501(d)(1)”.

30. On page 98265, third column, first full paragraph, line 7, the reference “§ 427.503(a)(1)” is corrected to read “§ 427.301(a)(1)”.

31. On page 98266,

a. First column, fourth full paragraph, (1) Line 23, the reference “§ 427.503” is corrected to read “§ 427.502(c)”.

(2) Line 24, the reference “§ 428.403” is corrected to read “§ 428.402(c)”.

b. Second column, third full paragraph,

(1) Line 6, the phrase “as determined under” is corrected to read “as set forth in”.

(2) Line 7, “§ 427.503(a)(1)” is corrected to read “§ 427.301(a)(1)”.

32. On page 98268, first column, first full paragraph, line 27, the reference “§ 427.301” is corrected to read “§ 427.501(b)(1)”.

33. On page 98269, third column, fourth full paragraph,

a. Lines 12 and 13, the reference “the specified amount exceeds” is corrected to read “the specified amount as determined under § 427.302(b) exceeds”.

b. Line 15, the reference “§ 427.301(g)” is corrected to read “§ 427.302(g)”.

34. On page 98271, first column,

a. First partial paragraph,

(1) Line 8, the reference “§ 427.501(c)” is corrected to read “§ 427.501(d)(1)”.

(2) Line 11, the reference

“§ 427.501(d)(1)” is corrected to read “§ 427.501(d)(2)”.

b. Third full paragraph,

(1) Line 5, the reference

“§ 427.501(b)(iii)” is corrected to read “§ 427.501(b)(1)(iii)”.

(2) Line 6, the reference

“§ 427.501(d)(i)(B)” is corrected to read “§ 427.501(d)(1)(i)(B)”.

35. On page 98278, first column,

a. First full paragraph, lines 7 and 8, the phrase “such as extended-release formulation reference” is corrected to read “such as an extended-release formulation”.

b. Third full paragraph, lines 26 and 27, the phrase “per unit Part D drug inflation rebate amount” is corrected to read “per unit Part D rebate amount”.

36. On page 98279, second column, a. Second full paragraph, the section heading “iii. Calculation of the Per Unit Part D Drug Rebate Amount” is corrected to read “iii. Calculation of the Per Unit Part D Rebate Amount”.

b. Third full paragraph,

(1) Line 5, the phrase “Part D drug rebate amount” is corrected to read “Part D rebate amount”.

(2) Lines 9 and 10, the phrase “Part D drug inflation rebate amount” is corrected to read “Part D rebate amount”.

(3) Line 16, the phrase “Part D drug inflation rebate amount” is corrected to read “Part D rebate amount”.

37. On page 98284, third column, first partial paragraph, line 18, the reference “(c)(2)” is corrected to read “(2)”.

38. On page 98287, first column,

a. Second full paragraph, lines 3 and 4, the phrase “Part D drug inflation rebate amount” is corrected to read “Part D rebate amount”.

b. Last paragraph, lines 3 and 4, the phrase “Part D drug inflation rebate amount” is corrected to read “Part D rebate amount”.

39. On page 98296, top of the page, first column, first partial paragraph, line

1, the reference “428.201(a)” is corrected to read “428.201(a)(1)(i)”.

40. On page 98298, third column, first partial paragraph, line 15, the reference “Table 60” is corrected to read “Table 61”.

41. On page 98301, third column, first partial paragraph, line 23, the reference to “Table 61” is corrected to read “Table 62”.

42. On page 98306, third column, a. First partial paragraph, lines 18 and 19, the reference “October 1, 2024, as determined under § 428.402” is corrected to read “October 1, 2024”.

b. First full paragraph, line 14, the word “believes” is corrected to read “believe”.

43. On page 98307, second column, third paragraph, line 5, the reference “§ 428.401(b)(iii) and § 428.401(d)(i)(B)” is corrected to read “§ 428.401(b)(1)(iii) and (d)(1)(i)(C)”.

44. On page 98308, a. First column, second paragraph, line 25, the reference “§ 428.405(a)(1)” is corrected to read “§ 428.401(d)(1)(i)(G)”.

b. Third column, first full paragraph, lines 15 and 16, the reference “§ 428.401(d)(1)(i) and (d)(2)” is corrected to read “§ 428.401(d)(1)(i), and (2)”.

45. On page 98310, second column, second paragraph,

a. Lines 5 through 7, the phrase “§ 428.401(d)(1)(i)(C) to specify that the reconciliation will include updated payment” is corrected to read “§ 428.401(b)(1)(iii) to specify that the Rebate Report will include the payment”.

b. Lines 16 and 17, the reference “§ 428.401(b)(iii) and § 428.401(d)(1)(i)(B)” is corrected to read “§ 428.401(d)(1)(i)(C)”.

c. Lines 40 and 41, the phrase “benchmark period manufacturer price” is corrected to read “payment amount benchmark period”.

d. Lines 43 and 44, the reference “§ 428.401(b)(iii) and § 428.401(d)(1)(i)(B)” is corrected to read “§ 428.401(b)(1)(iii) and (d)(1)(i)(C)”.

46. On page 98311, first column, first partial paragraph, line 14, the phrase “applicable periods” is corrected to read “applicable period”.

47. On page 98312, third column, first partial paragraph, line 6, the phrase “Part D Rebateable drugs” is corrected to read “Part D rebateable drugs”.

48. On page 98332, third column, first partial paragraph, line 6, the phrase “patients in hemorrhagic over traditional” is corrected to read “patients in hemorrhagic shock over traditional”.

49. On page 98358, second column, first full paragraph, lines 13 through 14, the title “Quality ID #001 Diabetes: Hemoglobin A1c (HbA1c) Poor Control” is corrected to read “Quality ID #001 Diabetes: Glycemic Status Assessment Greater Than 9%”.

50. On page 98366, top of the page, in table titled “TABLE 67: Alignment of the APP Plus Measure Set with the Adult Universal Foundation Measure Set”, first row (Quality #001), third column (Measure Title), the entry “Diabetes: Hemoglobin A1c (HbA1c) Poor Control” is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

51. On page 98367, top of the page, in the table titled “TABLE 68 APP Plus Quality Measure Set for the CY 2025 Performance Period”, first row (Quality #001), second column (Measure Title), the entry “Diabetes: Hemoglobin A1c (HbA1c) Poor Control” is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

52. On page 98368, in the table titled “TABLE 69: APP Plus Quality Measure Set for the CY 2026 Performance Period”, first row (Quality #001), second column (Measure Title), the entry “Diabetes: Hemoglobin A1c (HbA1c) Poor Control” is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

53. On page 98369, in the table titled “TABLE 70: APP Plus Quality Measure Set for the CY 2027 Performance Period”,

a. First row (Quality #001), second column (Measure Title), the entry is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

b. Last row (Quality #305), Third column (Collection Type), the entry “eCQM (all APP reporters); Medicare CQM (SSP ACOs only)” is corrected to read “eCQM/MIPS CQM/Part B Claims (all APP reporters); Medicare CQM (SSP ACOs only)”.

54. On pages 98370 and 98371, in the table titled “TABLE 71: APP Plus Quality Measure Set for the CY 2028 Performance Period and Subsequent Performance Periods”,

a. First row (Quality #001), second column (Measure Title), the entry “Diabetes: Hemoglobin A1c (HbA1c) Poor Control” is corrected to read “Diabetes: Glycemic Status Assessment Greater Than 9%”.

b. Ninth row (Quality #305), third column (Collection Type), the entry “eCQM (all APP reporters); Medicare CQM (SSP ACOs only)” is corrected to read “eCQM/MIPS CQM/Part B Claims (all APP reporters); Medicare CQM (SSP ACOs only)”.

55. On pages 98406 through 98408, in the table titled “Table 75: Summary Table of Previously Established and Finalized Cost Measures for the CY 2025 Performance Period/2027 MIPS Payment Year and Future Performance Periods”, last row (Total Per Capita Cost), third column (Case Minima), the entry “20 beneficiary months” is corrected to read “20 beneficiaries”.

56. On page 98434, after the table titled “TABLE 82: Proposed topped out measures impacted by limited measure choice and subject to defined topped out measure benchmark for the CY 2025 performance period/2027 MIPS Payment Year” is corrected by adding a table note to read as follows:

“CMS included MIPS CQM 436 on the list in error. The removal of this measure was previously finalized.”

57. On page 98468,

a. First column, fourth full paragraph, lines 1 through 4, the sentence “The following changes will be submitted to OMB for approval under control number 0938–INSERT (CMS–INSERT).” is corrected by removing the sentence.

b. Second column, last paragraph, line 12, the mathematical phrase “3,100 hours (310 hr per form * 10 forms)” is corrected to read “310 hours (31 hr per form * 10 forms)”.

c. Third column,

(1) First partial paragraph, line 22, the phrase “the potential shortage T” is corrected to read “the potential shortage”.

(2) First full paragraph, lines 5 and 6, the mathematical phrase “3,100 hours (310 hr per form * 10 forms)” is corrected to read “310 hours (31 hr per form * 10 forms)”.

58. On page 98469, first column, first partial paragraph, line 22, the mathematical expression “(3)]]” is corrected to read “(3)]]”.

59. On page 98474, first column, second paragraph, lines 6 through 8, the phrase “Quality #001: Diabetes: Hemoglobin A1c (HbA1c) Poor Control” is corrected to read “Quality #001: Diabetes: Glycemic Status Assessment Greater Than 9%”.

60. On page 98479,

a. Top of the page, second column, second paragraph, lines 11 through 14, the phrase that reads “one MIPS quality measure from the current MIPS quality measure inventory of 197 measures (198 current + 9 new measures)” is corrected to read “three MIPS quality measures from the current MIPS quality measure inventory of 198 measures (198 current + 7 new measures)”.

b. Middle of the page, in the table titled “TABLE 96: Summary of Quality Measure Inventory Finalized for the CY

2025 Performance Period/2027 MIPS Payment Year”,

(1) Header row, second column, the heading “# Measures Proposed as New*” is corrected to read “# Measures Finalized as New*”.

(2) Second row (MIPS CQMs Specifications), third column (# Measures Finalized for Removal*), the entry “–11” is corrected to read “–10”.

61. On page 98493, top half of the page, in the table titled “TABLE 107:

Annual Requirements and Burden Estimates”, the listed entries (first and third rows) are corrected to read as follows:

Section(s) under Title 42 of the CFR	OMB control No. (CMS ID No.)	Number respondents	Total annual responses	Time per response (hours)	Total annual time (hours)	Labor cost (\$/hr)	Total cost (\$)
§§ 414.1325, 414.1335, 414.1365 Quality Payment Program.	0938–1314 (CMS–10621).	41,195 Clinicians; 10,765 Group TINs; 20 Sub-groups; 6 Virtual Groups; Total: 51,986.	68,954	Varies	(7,570)	Varies	(913,176)
Total .....	.....	52,006	68,974	Varies	(6,950)	Varies	(838,420)

62. On page 98494, second column, first partial paragraph, line 5 the word, “established” is corrected to read “establishes”.

63. On page 98495, third column, first full paragraph, line 5 that reads, “beginning on or after January 1, 2025” is corrected to read “ending after December 31, 2024.”

64. On page 98508, first column,

a. Line 11, the phrase “80 percent” is corrected to “82 percent”.

b. Line 13, the phrase “75 percent” is corrected to “76 percent”.

c. Line 31, the phrase “1 percent” is corrected to read “0 percent”.

d. Line 34, the phrase “24 percent” is corrected to read “23 percent”.

e. Line 39, the phrase “13 percent” is corrected to read “14 percent”.

f. Lines 43 and 44, the phrase “14 percent” is corrected to read “15 percent”.

65. On page 98518, second column, third full paragraph, line 7 the phrase, “beginning on or after January 1, 2025,”

is corrected to read “ending after December 31, 2024.”

66. On page 98528, second column, first full paragraph, lines 8 through 9, the phrase “Part D drugs and biological products; covered under Part D” is corrected to read “drugs and biological products covered under Part D”.

67. On pages 98547 and 98548, in the table titled “TABLE 128: Incremental Estimated Burden from Associated Finalized Policies”, the table is corrected to read as follows:

TABLE 128—INCREMENTAL ESTIMATED BURDEN FROM ASSOCIATED FINALIZED POLICIES

[Asterisks refer to paragraph directly following table]

Burden description and associated provisions	Burden hours	Burden dollars
Total burden associated with the provision to continue the policies and ICRs set forth in the CY 2024 PFS final rule into the CY 2025 performance period/2027 MIPS payment year with updated data and assumptions (outlined in section V.B.6.a.(1)(a) of this final rule).	594,447	\$71,079,848
Burden change for MVP registration ICR due to the provision of additional MVPs (outlined in section V.B.6.c.(5).(a).(i) of this final rule).*	+626	+66,759
Burden change for Quality Data Submission by Clinicians: Medicare Part B Claims-Based Collection Type ICR for capturing reduced number of quality submissions due to the provision of additional MVPs (outlined in section V.B.6.c.(2) of this final rule).*	–7,697	–898,035
Burden change for Quality Data Submission by Clinicians: CQM/QCQR Collection Type ICR for capturing reduced number of quality submissions due to the provision of additional MVPs (outlined in section V.B.6.c.(3) of this final rule).*	–6,866	–823,269
Burden change for Quality Data Submission by Clinicians: eCQM Collection Type ICR for capturing reduced number of quality submissions due to the provision of additional MVPs (outlined in section V.B.6.c.(4) of this final rule).*	–9,664	–\$1,176,109
Burden change for MVP Quality Submission ICR submissions due to the provision of additional MVPs (outlined in section V.B.6.c.(5).(a).(iii) of this final rule).*	+16,031	+1,917,478
Total change in burden due to policy for CY 2025 performance period/2027 MIPS payment year	–7,570	–913,176
Total burden set forth in the CY 2025 PFS final rule	586,877	70,166,672

The total change in burden due to this policy provision includes an increase in burden due to an anticipated increase in the number of respondents that will participate in MVP reporting based on the addition of six new MVPs. Therefore, there is a decrease in burden in the MIPS CQM and QCQR, eCQM, and Medicare Part B ICRs due to respondents who previously submitted MIPS through those collection types submitting data with reduced quality submission requirements as an MVP Participant. Total change in burden also reflects an increase in submission burden due to the additional MVP registrants. See section V.B.6.c.(2) of this final rule for additional detail.

68. On page 98549, third column

a. First partial paragraph, lines 1 through 3 the phrase “or the next performance period following the availability of the eCQM specifications” is corrected to read “or the performance period that is 1 year after the eCQM specifications become available for each respective measure”.

b. Second partial paragraph, lines 10 through 11, the phrase “MIPS CQM/QCQR” is corrected to read “MIPS CQM/QCQR”.

69. On page 98550, first column,

a. First partial paragraph, lines 15 through 17, the phrase “or the next performance period following the availability of the eCQM specifications” is corrected to read “or the performance period that is 1 year after the eCQM specifications become available for each respective measure”.

b. First full paragraph, lines 10 through 11, the citation “(88 FR 84862)” is corrected to read “(85 FR 84862)”.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Diseases, Health facilities, Health professions, Medical devices, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 427

Administrative practice and procedure, Biologics, Inflation rebates, Medicare, Prescription drugs.

42 CFR Part 428

Administrative practice and procedure, Biologics, Inflation rebates, Medicare, Prescription drugs.

For the reasons set forth in the preamble, CMS corrects 42 CFR parts 405, 427, and 428 by making the following correcting amendments:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

- 1. The authority citation for part 405 continues to read as follows:

Authority: 42 U.S.C. 263a, 405(a), 1302, 1320b–12, 1395x, 1395y(a), 1395ff, 1395hh, 1395kk, 1395rr, and 1395ww(k).

- 2. Section 405.1210 is amended by revising paragraph (b)(3) to read as follows:

§ 405.1210 Notifying eligible beneficiaries of appeal rights when a beneficiary is reclassified from an inpatient to an outpatient receiving observation services.

* * * * *

(b) * * *

(3) *When delivery of the notice is valid.* Delivery of the written notice of appeal rights described in this section is valid if—

(i) The eligible beneficiary (or the eligible beneficiary's representative) has signed and dated the notice to indicate that he or she has received the notice and can comprehend its contents, except as provided in paragraph (b)(4) of this section; and

(ii) The notice is delivered in accordance with paragraph (b)(1) of this section and contains all the elements described in paragraph (b)(2) of this section.

* * * * *

PART 427—MEDICARE PART B DRUG INFLATION REBATE PROGRAM

- 3. The authority citation for part 427 continues to read as follows:

Authority: 42 U.S.C. 1395w–3a(i), 1302, and 1395hh.

- 4. Amend § 427.302 by revising the section heading and paragraph (c) introductory text to read as follows:

§ 427.302 Calculation of the per unit Part B rebate.

* * * * *

(c) *Identification of the payment amount benchmark quarter.* For each Part B rebatable drug, CMS will identify the applicable payment amount benchmark quarter as set forth in paragraphs (c)(1) through (3) of this section, as applicable, subject to paragraphs (c)(4) and (5) of this section,

using the earliest first marketed date of any NDC ever marketed under any FDA application under which any NDCs that have ever been assigned to the billing and payment code as of the applicable calendar quarter have been marketed, and using the earliest approval or licensure date of any FDA application under which any NDCs that have ever been assigned to the billing and payment code as of the applicable calendar quarter have been marketed:

* * * * *

§ 427.401 [Amended]

- 5. Amend § 427.401 in paragraph (b)(2)(iv) by removing the phrase “set forth” and adding in its place the word “described”.

- 6. Amend § 427.501 by revising paragraph (d)(1)(i) introductory text to read as follows:

§ 427.501 Rebate Reports and reconciliation.

* * * * *

(d) * * *

(1) * * *

(i) *Preliminary reconciliation.* At least 1 month prior to the issuance of a report with the reconciled rebate amount for an applicable calendar quarter as set forth in paragraph (d)(1)(ii) of this section, CMS will conduct a preliminary reconciliation of the rebate amount for an applicable calendar quarter based on the information set forth in paragraphs (b)(1)(i) through (ix) of this section and provide the information set forth in paragraphs (b)(1) and (d)(1)(i)(A) through (F) of this section to the manufacturer of a Part B rebatable drug for the applicable calendar quarter, if applicable:

* * * * *

PART 428—MEDICARE PART D DRUG INFLATION REBATE PROGRAM

- 7. The authority citation for part 428 continues to read as follows:

Authority: 42 U.S.C. 1395w–114b, 1302, and 1395hh.

- 8. Amend § 428.202 by revising the section heading and paragraph (a) to read as follows:

§ 428.202 Calculation of the per unit Part D rebate amount.

(a) *Formula for calculating the per unit Part D rebate amount.* CMS will calculate the per unit Part D rebate amount for a Part D rebatable drug and applicable period by determining the amount by which the AnMP for the Part D rebatable drug, as calculated in accordance with paragraph (b) of this section, exceeds the inflation-adjusted

payment amount, as calculated in accordance with paragraph (f) of this section.

* * * * *

- 9. Amend § 428.204—

■ a. In the introductory text by removing the reference “§ 428.201(a)” and adding in its place the reference “§ 428.201(a)(1)(i)”; and

■ b. By revising paragraph (b).

The revision reads as follows:

§ 428.204 Treatment of new formulations of Part D rebatable drugs.

* * * * *

(b) *Calculation of the inflation rebate amount ratio.* The inflation rebate amount ratio is equal to the per unit Part D rebate amount for the initial drug, as determined under § 428.202(a), divided by the AnMP for that initial drug for the applicable period.

* * * * *

§ 428.301 [Amended]

- 10. Amend § 428.301 in paragraph (b)(2)(iv) by removing the phrase “set forth” and adding in its place the word “described”.

Wilma Robinson,

Deputy Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2025–08676 Filed 5–15–25; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR**Office of the Secretary****43 CFR Part 8**

[Docket No. DOI–2024–0017; 256D0102DM, DS6CS00000, DLSN00000.000000, DX6CS25]

RIN 1093–AA29

Joint Policies of the Departments of the Interior and of the Army Relative to Reservoir Project Lands; Delay of Effective Date

AGENCY: Office of the Secretary, Interior.

ACTION: Direct final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2025, from President Donald J. Trump, entitled “Regulatory Freeze Pending Review,” this action delays the effective date of the direct final rule published on January 16, 2025, to June 16, 2025.

DATES: As of May 16, 2025, the effective date of the rule published on January 16, 2025 (90 FR 4669), delayed until May 16, 2025 (90 FR 15935), is further delayed until June 16, 2025.

FOR FURTHER INFORMATION CONTACT:

Roland Springer, Acting Regional Director—Bureau of Reclamation, Interior Region 9—Columbia-Pacific Northwest, rspringer@usbr.gov; telephone at (208) 378–5006. Individuals who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The direct final rule, “Joint Policies of the Departments of the Interior and of the Army Relative to Reservoir Project Lands,” published on January 16, 2025, at 90 FR 4669, included a 60-day public comment period that ended on March 17, 2025. The effective date of the direct final rule was April 16, 2025. A notice to delay the effective date of the direct final rule was published in the **Federal Register** on April 16, 2025, at 90 FR 15935 delaying the effective date to May 16, 2025. This notice further delays the effective date to June 16, 2025. The Department of the Interior is taking this action in response to Memorandum M–25–10 of January 20, 2025, from the Executive Office of the President, Office of Management and Budget, Implementation of Regulatory Freeze, regarding the postponement of effective dates of certain published regulations. The memorandum directed the heads of Executive Departments and Agencies to consider postponing for 60 days from the date of the memorandum the effective date for any rules that have been published in the **Federal Register**, or any rules that have been issued in any manner but have not taken effect, for the purpose of reviewing any questions of fact, law, and policy that the rule may raise. The Department of the Interior is delaying the effective date of the direct final rule published at 90 FR 4669 to June 16, 2025.

The Department of the Interior is delaying the effective date of the direct final rule without opportunity for public comment and making the delay effective immediately, based on the good cause exemptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment on the delay is impracticable, unnecessary, and contrary to the public interest. The delay in effective date until June 16, 2025, is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the memorandum of the President, dated

January 20, 2025. Given the imminence of the effective date of the direct final rule, seeking prior public comment on this delay is impractical, and contrary to the public interest in the orderly promulgation and implementation of regulations. For the foregoing reasons, the good cause exception in 5 U.S.C. 553(d)(3) also applies to the Department of the Interior’s decision to make this action effective immediately.

Tyler Hassen,

Acting Assistant Secretary—Policy, Management, and Budget.

[FR Doc. 2025–08760 Filed 5–15–25; 8:45 am]

BILLING CODE 4334–CC–P

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

[Docket No. 231101–0256; RTID 0648–XE866]

Fisheries of the South Atlantic; 2025 Recreational Fishing Season Announcement and Closure for Blueline Tilefish in the South Atlantic

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

ACTION: Temporary rule; recreational fishing season and closure.

SUMMARY: NMFS announces the 2025 recreational fishing season for blueline tilefish in the exclusive economic zone (EEZ) of the South Atlantic. Announcing the length of the recreational fishing season is the accountability measure (AM) for the recreational sector. NMFS estimates that recreational landings of blueline tilefish will reach the recreational annual catch limit (ACL) during the 2025 fishing year. NMFS announces the season length and closure date for the recreational harvest of blueline tilefish in the South Atlantic to allow recreational fishermen to maximize their opportunities while NMFS manages recreational harvest to protect the blueline tilefish resource.

DATES: This temporary rule is effective from July 22 through December 31, 2025.

FOR FURTHER INFORMATION CONTACT:

Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South

Atlantic includes blueline tilefish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and NMFS, approved by the Secretary of Commerce, and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Regulations at 50 CFR 622.193(z)(2) specify the recreational ACL for blueline tilefish of 116,820 pounds (lb) or 52,989 kilograms (kg) in round weight, and the recreational AM. The recreational AM states that NMFS will project the length of the recreational fishing season for blueline tilefish based on catch rates from the previous fishing year and announce the end date of the recreational season based on when NMFS projects the recreational ACL will be met [50 CFR 622.193(z)(2)]. While the fishing year for blueline tilefish started on January 1, 2025, the recreational season for blueline tilefish harvested in or from the South Atlantic EEZ is closed from January 1 through April 30, and September 1 through December 31 each year [50 CFR 622.183(b)(7)]. Data from the NMFS Southeast Fisheries Science Center informed NMFS’ projection that recreational landings of blueline tilefish will reach the recreational ACL for 2025 by July 22. Therefore, the recreational season and harvest of blueline tilefish in the South Atlantic EEZ is closed starting on July 22, 2025, and will continue to be closed through the end of the calendar year. During the recreational closure, the bag and possession limits for blueline tilefish in or from the South Atlantic EEZ are zero. The next recreational fishing season for blueline tilefish begins on May 1, 2026.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.193(z)(2), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule that established the recreational ACL and AM for blueline tilefish has already been subject to notice and comment,

and all that remains is for NMFS to notify the public of the end date of the recreational season. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect the bluefin tilefish stock. NMFS estimates that the recreational ACL will be reached in 2025 and prior notice and opportunity for public comment would require additional time, potentially resulting in a harvest in excess of the established ACL.

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

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

Dated: May 12, 2025.

Kelly Denit,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 250512-0084]

RIN 0648-BN19

Fisheries Off West Coast States; West Coast Salmon Fisheries; 2025 Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: Through this final rule, NMFS establishes fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California for the season beginning May 16, 2025, and ending May 15, 2026 (the 2025 ocean salmon fishing season), under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The fishery management measures include fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, harvest guidelines, possession and landing restrictions, and minimum lengths for salmon taken in the U.S. Exclusive Economic Zone (EEZ) off Washington, Oregon, and California. These measures are intended to prevent overfishing while achieving, on a continuing basis, the optimum yield from the fishery, to provide for the exercise of federally

recognized fishing rights by West Coast Indian Tribes, to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement, and to apportion the ocean harvest equitably among non-Indian commercial and recreational fisheries.

DATES: This final rule is effective from 0001 hours Pacific Daylight Time, May 16, 2025, until the effective date of the 2026 management measures, as published in the **Federal Register**, which we expect to be 0001 hours Pacific Daylight Time, May 16, 2026.

ADDRESSES: The documents cited in this document are available on the Pacific Fishery Management Council's (Council or PFMC) website (<https://www.pcouncil.org>) and the NMFS West Coast Region (WCR) website (<https://www.fisheries.noaa.gov/action/fisheries-west-coast-states-west-coast-salmon-fisheries-2025-management-measures>).

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SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries in the EEZ (3-200 nautical miles (nmi); 5.6-370.4 kilometers (km)) off the coasts of Washington, Oregon, and California are managed under the Pacific Coast Salmon Fishery Management Plan (FMP). Regulations at 50 CFR part 660, subpart H, provide the mechanism for developing and promulgating preseason specifications and management measures and making inseason adjustments to the management measures within limits set by the FMP by notification in the **Federal Register**. Regulations at 50 CFR 660.408 govern the establishment of annual management measures, and regulations at 50 CFR 660.409 govern the implementation of inseason adjustments. This rule implements the management measures for the 2025 ocean salmon fishing season.

Process Used To Establish 2025 Management Measures

Ocean salmon fishery management measures are established via a collaborative process with the Council, States, Tribes, fishing industry participants, anglers, and the public. The Council announced its annual preseason management process for the 2025 ocean salmon fishing season in the **Federal Register** on December 11, 2024 (89 FR 99841). NMFS published an additional notice of opportunity to submit public comments on the 2025 ocean salmon fishery management

measures in the **Federal Register** on February 19, 2025 (90 FR 9896). These notices announced the availability of key documents, the dates and locations of meetings and public hearings regarding determining the annual proposed and final modifications to ocean salmon fishery management measures, and instructions on how to comment on those measures. The agendas for the March and April Council meetings were published in the **Federal Register** (90 FR 9618, February 14, 2025, and 90 FR 12706, March 19, 2025) and posted on the Council's website prior to the meetings.

In accordance with the FMP, the Council's Salmon Technical Team (STT) and economist prepared four reports, which were made available on the Council's website upon their completion. The first of the reports, "Review of 2024 Ocean Salmon Fisheries," was prepared in February when the first increment of scientific information necessary for crafting management measures for the 2025 ocean salmon fishing season became available. The first report summarizes biological and socio-economic data from the 2024 ocean salmon fisheries and assesses the performance of the fisheries with respect to the 2024 management objectives for salmon stocks and stock complexes, as well as provides historical information for comparison. The second report, "Preseason Report I Stock Abundance Analysis and Environmental Assessment Part 1 for 2025 Ocean Salmon Fishery Regulations" (PRE I), provides the 2025 salmon stock abundance projections and analyzes how the salmon stocks defined in the FMP and Council management goals would be affected if the 2024 management measures (the no-action alternative under the National Environmental Policy Act (NEPA)) were continued for the 2025 ocean salmon fishing season. The completion of PRE I is the initial step in developing and evaluating the full suite of preseason alternatives for the 2025 fishing season.

Following the completion of the first two reports, the Council met from March 4 to 11, 2025, to develop 2025 management alternatives for proposal to the public and consideration under NEPA. The Council proposed three alternatives for commercial and recreational fisheries management and three alternatives for treaty Indian fisheries management for analysis and public comment. These alternatives consisted of various combinations of management measures designed to ensure that stocks of coho salmon and Chinook salmon meet conservation goals, to provide for ocean harvests of

more abundant stocks, to provide equitable sharing of harvest among ports and sectors, and to provide for the exercise of Indian treaty fishing rights. After the March Council meeting, the Council's STT and economist prepared a third report, "Preseason Report II Proposed Alternatives and Environmental Assessment Part 2 for 2025 Ocean Salmon Fishery Regulations" (PRE II), which analyzes the effects of the proposed 2025 ocean salmon fishing season management alternatives. In addition, a meeting between the U.S. and Canadian salmon managers provided additional forecast and harvest information related to southern U.S. stocks, including those that are part of the fisheries managed under the FMP.

The Council sponsored public hearings in person to receive testimony on the proposed alternatives on March 24, 2025, for Washington and Oregon, and on March 25, 2025, for California. In addition, the States of Washington, Oregon, and California sponsored meetings in various forums that also collected public testimony. The public also provided testimony at the March and April Council meetings and electronic submissions via the Council's electronic portal and <https://www.regulations.gov>.

Members of several federally recognized Tribes, including Tribes with treaty rights for salmon harvest, testified at the March and April Council meetings. Additional Tribal comments were submitted in writing. Tribes emphasized the cultural importance of salmon to their communities, expressed concerns over the uncertainty of forecasts for some stocks in 2025, and urged the Council to be conservative in setting the salmon seasons. Some Tribes addressed several issues in the Columbia Basin, such as habitat alteration and the need to address increased avian and pinniped predation on smolts. Columbia River treaty Tribes also expressed concerns that higher harvest levels could negatively impact hatchery brood collection and spawning escapement to local tributaries. Tribes are doing their part to improve habitat, raise hatchery fish, and expand the distribution of salmon to their historic production areas and want to ensure that the management of the fisheries in the EEZ is supporting those actions.

The Council adopted its recommendations for the 2025 ocean salmon management measures at its April meeting. The Council's STT and economist then prepared a fourth report, "Preseason Report III Analysis of Council-Adopted Management Measures for 2025 Ocean Salmon

Fisheries" (PRE III), which analyzes the environmental and socioeconomic effects of the Council's final recommendations (the Council's preferred alternative under NEPA). The Council transmitted the recommended management measures to NMFS on April 24, 2025, and published them on its website (<https://www.pcouncil.org>).

Under the FMP, the ocean salmon management cycle begins May 16 and continues through May 15 of the following year. This final rule is effective on May 16, 2025, consistent with the FMP, and governs the federally managed ocean salmon fisheries from that date until the effective date of the 2026 management measures, which we expect to be published before May 16, 2026. Fisheries in 2025 that were open prior to May 16, 2025, were governed by the final rule implementing the salmon fishery management measures for the 2024 ocean salmon fishing season (89 FR 44553, May 21, 2024; 89 FR 53529, June 27, 2024). Salmon fisheries that were scheduled to open before May 16, 2025, under the 2024 rule are:

- Commercial ocean salmon fisheries from the U.S./Canada border to the U.S./Mexico border;
- Recreational ocean salmon fisheries from Cape Falcon, OR, to Humbug Mountain, OR;
- Recreational ocean salmon fisheries from the Oregon/California border to the U.S./Mexico border; and
- Treaty Indian troll ocean salmon fisheries north of Cape Falcon.

Several fisheries scheduled to open between March 15, 2025, and May 15, 2025, were closed or modified through inseason action in response to updated salmon stock forecast information for 2025. Analysts included the impacts of all fisheries occurring between March 15, 2025, and May 15, 2025, in their assessment of the impacts of 2025 fisheries on individual stocks.

National Environmental Policy Act

The environmental assessment (EA) for this action comprises the Council's documents described above (PRE I, PRE II, and PRE III), providing an analysis of environmental and socioeconomic effects under NEPA. The EA and its related Finding of No Significant Impact are posted on the NMFS WCR website (<https://www.fisheries.noaa.gov/west-coast/laws-policies/west-coast-salmon-harvest-nepa-documents>).

Resource Status

Stocks of Concern

The FMP requires that the fisheries be managed to meet escapement-based annual catch limits (ACLs),

requirements to limit impacts on species listed under the Endangered Species Act (ESA), obligations of the Pacific Salmon Treaty (PST) between the United States and Canada, and other conservation objectives. In addition, all regulations must be consistent with other applicable laws; these include Tribal treaties and other sources of law regarding Tribal fisheries. The ocean salmon fisheries managed under the FMP are mixed-stock fisheries, and NMFS and the State and Tribal managers use "weak stock" management to avoid exceeding limits for the stocks with the most constraining limits. Abundance forecasts for individual salmon stocks can vary significantly from one year to the next; therefore, the stocks that constrain the fishery in one year may differ from those that constrain the fishery in the next. For 2025, the stocks described below will constrain fisheries.

Fisheries south of Cape Falcon, Oregon, are limited in 2025 primarily by conservation concerns for Klamath River fall-run Chinook salmon (KRFC), Sacramento River fall-run Chinook salmon (SRFC), ESA-listed California Coastal Chinook salmon, and ESA-listed Southern Oregon/Northern California Coast (SONCC) coho salmon.

Fisheries north of Cape Falcon are limited by conservation requirements for the natural spawning component of the ESA-listed lower Columbia River coho salmon (Lower Columbia Natural or LCN coho salmon) Evolutionarily Significant Unit (ESU) and the ESA-listed lower Columbia River (LCR) natural tule Chinook salmon. The limitations imposed to protect these stocks are described below. The management measures for 2025 are designed to avoid exceeding these limitations. Based on the most recent 3-year geometric means of spawning escapement (2021–2023, Queets River spring/summer Chinook salmon, which were designated as "overfished" in 2023, met the criteria for being classified as "not overfished, rebuilding," but the stock will continue to be managed under the rebuilding plan until it is rebuilt. It was not a limiting stock in planning the 2025 ocean salmon fishing season.

KRFC (non-ESA-listed): Abundance for this non-ESA-listed stock in the last decade has been historically low, and the stock continues to meet the criteria for overfished based on spawning escapement in 2022, 2023, and 2024. The stock is managed under a rebuilding plan consistent with the requirements of the MSA and the FMP. See 50 CFR 660.413(a). The FMP defines "overfished" status in terms of whether a 3-year geometric mean escapement

level is below the minimum stock size threshold (MSST). The KRFC salmon stock has been managed under *de minimus* exploitation rates that apply when forecast escapement is below the level associated with maximum sustainable yield (S_{MSY}) since 2020. Under the rebuilding plan, which includes the harvest control rule for KRFC described in the FMP, the 2025 forecast allows only *de minimis* fishing this year, *i.e.*, a total allowable exploitation rate of 10 percent (including all ocean and river fisheries, including Tribal fisheries). This limit will constrain fisheries south of Cape Falcon. The potential for critically low natural spawner abundance could be considered high. The 2025 management measures are forecast to result in an escapement of 19,417 KRFC natural spawners, which is below the stock's MSST (30,525). A natural-area escapement of 19,417 adults would represent the seventh lowest value over the past 49 years of data.

SRFC (non-ESA-listed): In 2021, NMFS declared the SRFC salmon stock rebuilt (87 FR 25429) due to several years of higher escapements; however, escapements in recent years have once again been low compared with the stock's conservation objective, and caution is warranted to reduce the likelihood that the stock becomes overfished again. Spawner abundance has been below the escapement floor of 122,000 associated with the FMP objective in six of the last nine years (2016–2024). The 3-year geometric mean of spawners is now 93,660 (2022, 2023, and 2024) as compared with the MSST of 91,500 at which the stock would meet the criteria of overfished. The adopted management measures result in a projected escapement of 165,655, which is below the upper end of the conservation objective range of 122,000–180,000 combined hatchery and natural area adult spawners. The Sacramento River also experienced low flows and high temperatures in recent years associated with decades of frequent droughts; these conditions have adversely affected the stock. The dominant year class contributing to 2025 fisheries (brood year 2022) improved compared to previous (poor) years.

SONCC coho salmon (ESA-listed threatened): The SONCC coho salmon ESU has been listed as threatened under the ESA since 1997. Conservation concerns for ESA-listed SONCC coho salmon will limit fisheries south of Cape Falcon in 2025. The SONCC coho salmon ESU consists of all naturally produced populations of coho salmon from coastal streams between Cape

Blanco, OR, and Punta Gorda, CA, and limited artificial propagation programs. Under the FMP, ESA consultation standards are used to manage ESA-listed stocks, including SONCC coho salmon. In April 2022, NMFS approved new harvest control rules that limit the total fishery (marine and freshwater) exploitation rate to 15 percent for all populations within the SONCC ESU except the Trinity River coho salmon population, which is limited to 16 percent. Coho salmon retention is not permitted in California ocean salmon fisheries. Salmon in 2025 will be managed consistent with these harvest control rules.

CC Chinook salmon—ESA-listed Threatened: The CC Chinook salmon ESU has been listed as threatened under the ESA since 1999. The ESU has been managed for a consultation standard not to exceed a 16 percent age-4 ocean harvest rate on KRFC salmon. In 2024, following several years in which the consultation standard was exceeded, NMFS approved a set of management measures to avoid further exceedances. 50 CFR 660.410(d). One of the measures is to use a buffer on the consultation standard to ensure ocean harvest rates do not exceed the 0.16 age-4 KRFC harvest rate consultation standard. For 2025, the ocean salmon fisheries were designed to avoid exceeding a buffered pre-season age-4 KRFC harvest rate of 7.7 percent. The 2024 biological opinion determined that authorization of the ocean salmon fishery in the EEZ through promulgation of regulations implementing the salmon FMP, including the CC Chinook salmon conservation objective and implementation of the new management measures, would not jeopardize the CC Chinook salmon ESU.

Lower Columbia River (LC) coho salmon (ESA-listed threatened): The LC coho salmon ESU has been listed as threatened under the ESA since 2005. In 2015, NMFS conducted the most recent ESA section 7 consultation and issued a biological opinion regarding the effects of Federal fisheries and fisheries in the Columbia River on LC coho salmon. The opinion analyzed the use of a harvest matrix to manage impacts on LC coho salmon. As described above, management under the FMP is focused on LCN coho salmon, the natural component of the LC coho salmon ESU. Under the matrix, the allowable harvest in a given year depends on indicators of marine survival and parental escapement that influence spawning in the current year. In 2025, Federal ocean salmon fisheries and commercial and recreational salmon fisheries in State waters, including the mainstem

Columbia River below Bonneville Dam, must be managed subject to a total exploitation rate limit on LCN coho salmon not to exceed 23 percent. In 2025, LCN coho salmon will constrain the salmon fisheries in the EEZ, particularly those north of Cape Falcon, such that, when combined with commercial and recreational fisheries in State marine waters and the mainstem Columbia River, the ESA requirement is met.

LCR Chinook salmon (ESA-listed threatened): The LCR Chinook salmon ESU comprises a spring component, a “far-north” migrating bright component, and a tule component. The bright and tule components both have fall run timing. There are twenty-one separate populations within the tule component of this ESU. Unlike the spring or bright populations of the ESU, LCR tule populations are caught in large numbers in Federal fisheries off the southern U.S. West Coast, as well as fisheries to the north (Canada and Alaska) and in the Columbia River. Therefore, this component of the ESU is the one most likely to constrain Federal fisheries in the area between the U.S. Canada border and Cape Falcon. These Federal fisheries are managed subject to an abundance-based management (ABM) framework that NMFS analyzed in a 2012 biological opinion, after accounting for anticipated impacts in northern fisheries and other fisheries that are outside the action area. Applying the ABM framework to the 2025 preseason abundance forecast, the total LCR tule exploitation rate for all salmon fisheries is limited to a maximum of 41 percent. Fisheries will be constrained north of Cape Falcon in 2025 such that when combined with all other salmon fisheries in the ocean and the Columbia River below Bonneville Dam, the ESA requirement is met.

Other Resource Issues

Southern Resident Killer Whale (SRKW) (ESA-listed endangered): The SRKW distinct population segment was listed under the ESA as endangered in 2005 (70 FR 69903, November 18, 2005). In 2021, NMFS approved Amendment 21 to the FMP (86 FR 51017, September 14, 2021), which establishes a Chinook salmon annual abundance management threshold below which specific measures to limit the effects of the ocean salmon fishery on Chinook salmon prey availability for SRKWs are implemented. These measures include time and area closures, a quota limitation for the north of Cape Falcon management area, and temporal shifts in fishing. The forecast abundance compared with the Chinook salmon

abundance threshold is reported annually in the above-referenced preseason reports as required by the FMP.

Because the pre-season estimate of the abundance of Chinook salmon in 2025 exceeds the threshold in the FMP, additional management measures are not required by the FMP, including amendment 21 (Preseason Report III; PFMC 2025).

ACLs and Status Determination Criteria

ACLs are required for all stocks or stock complexes in the fishery that are not managed under an international agreement, listed under the ESA, or designated as hatchery stocks. ACLs are set for two Chinook salmon stocks, SRFC and KRFC, and one coho salmon stock, Willapa Bay natural coho salmon. The SRFC and KRFC salmon stocks are indicator stocks for the Central Valley Fall Chinook salmon complex and the Southern Oregon/Northern California Chinook salmon complex, respectively. The Far North Migrating Coastal Chinook salmon complex (FNMC) includes a group of Chinook salmon stocks that are caught primarily in fisheries north of Cape Falcon and other fisheries occurring north of the U.S./Canada border. No ACL is set for FNMC stocks because they are managed subject to provisions of the PST between the United States and Canada (the MSA provides an international exception from ACL requirements that applies to stocks or stock complexes subject to management under an international agreement, which NMFS defines by regulation “any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party” (50 CFR 600.310(h)(1)(ii)). Other Chinook salmon stocks caught in fisheries north of Cape Falcon are ESA-listed or hatchery-produced and are managed consistent with ESA consultations, hatchery goals, or the provisions of the PST. Willapa Bay natural coho salmon is the only coho salmon stock for which an ACL is set, as the other coho salmon stocks in the FMP are either ESA-listed, hatchery-produced, or managed under the PST.

ACLs for salmon stocks are escapement-based, which means they establish a number of adults that must escape the fisheries to return to the spawning grounds. ACLs are set based on the annual potential spawner abundance forecast and a fishing rate reduced to account for scientific uncertainty. In addition to ACLs, SRFC and KRFC have conservation objectives expressed in terms of escapement goals that were developed prior to the

requirement for ACLs. Where the conservation objectives exceed the ACLs, the management measures are designed to achieve the conservation objectives. The surviving stock after fishery-related mortality is generally referred to as spawning escapement (S), and the proportion of the stock that succumbs to fishing-related mortality is generally referred to as the exploitation rate (F). These metrics constitute conservation objectives for FMP Stocks. In addition, F_{MSY} is the fishing mortality rate that would result in MSY , $S_{\text{acceptable}}$ biological catch (ABC) is the spawner escapement that is associated with the acceptable biological catch, and S_{OFL} is the spawning escapement associated with the overfishing limit (OFL).

For SRFC in 2025, $F_{MSY} = 0.58$. The SRFC F_{MSY} proxy of 0.58 was adopted in November 2024 following the 2024 Methodology Review. The OFL for SRFC is $S_{OFL} = 165,655 \times (1 - 0.58) = 69,575$. Because SRFC is a Tier-2 stock, $F_{ABC} = F_{MSY} \times 0.90 = 0.52$, and $F_{ACL} = F_{ABC}$. The ABC for SRFC is $S_{ABC} = 165,655 \times (1 - 0.52) = 79,514$, with $S_{ACL} = S_{ABC}$. The recommended management measures provide for a projected SRFC spawning escapement of 147,733.

For KRFC in 2025, $F_{MSY} = 0.71$, the value estimated from a stock-specific spawner-recruit analysis (STT 2005). The OFL for KRFC is $= 20,763 \times (1 - 0.71) = 6,021$. Because KRFC is a Tier-1 stock, $F_{ABC} = F_{MSY} \times 0.95 = 0.68$, and $F_{ACL} = F_{ABC}$. The ABC for KRFC is $S_{ABC} = 20,763 \times (1 - 0.68) = 6,644$, with $S_{ACL} = S_{ABC}$. The recommended management measures provide for a projected KRFC spawning escapement of 19,417.

For Willapa Bay natural coho salmon in 2025, $F_{MSY} = 0.74$, the value estimated from a stock-specific spawner-recruit analysis. The OFL for Willapa Bay natural coho salmon is $S_{OFL} = 39,939 \times (1 - 0.74) = 10,384$. Because Willapa Bay natural coho salmon are a Tier-1 stock, $F_{ABC} = F_{MSY} \times 0.95 = 0.70$, and $F_{ACL} = F_{ABC}$. The ABC for Willapa Bay natural coho salmon is $S_{ABC} = 39,939 \times (1 - 0.70) = 11,982$, with $S_{ACL} = S_{ABC}$. The recommended management measures provide for a projected Willapa Bay natural coho salmon spawning escapement of 16,101.

In summary, the 2025 management measures are expected to result in escapements greater than required to meet the ACLs for all three stocks with defined ACLs.

Public Comments

The Council invited written comments on developing 2025 salmon management measures in their notice announcing public meetings and

hearings (89 FR 99841, December 11, 2024). At its March meeting, the Council developed 3 alternatives for 2025 commercial and recreational salmon management measures, having a range of quotas, season structure, and impacts, as well as 3 alternatives for 2025 North of Cape Falcon Treaty Indian troll ocean salmon management measures. These alternatives are described in detail in PRE II. Subsequently, comments were taken at three public hearings held in March, staffed by representatives of the Council and the States. The Council received 294 written comments via their electronic portal and 17 oral comments on the 2025 ocean salmon fisheries, including from members of the public who commented several times. The 3 public hearings were attended by a total of 122 people; 40 people provided oral comments. Comments came from individual fishers, fishing associations, fish buyers, processors, conservation organizations, and the general public. Written and oral comments addressed the 2025 management alternatives described in PRE II and generally expressed preferences for a specific alternative or for particular season structures. All written comments were made available via the Council's online briefing books for the March and April 2025 Council meetings. In addition to comments collected at the public hearings and those submitted directly to the Council, several people provided oral comments at the March and April 2025 Council meetings. Written and oral comments received were considered by the Council, which includes a representative from NMFS, in developing the recommended management measures transmitted to NMFS on April 24, 2025. NMFS also invited comments to be submitted directly to the Council or NMFS via the Federal Rulemaking Portal (<https://www.regulations.gov>) in a notice (90 FR 9896, February 19, 2025); NMFS received no comments via the Federal Rulemaking Portal.

Comments on alternatives for commercial salmon fisheries. Those testifying on north of Cape Falcon commercial salmon fisheries at the Washington hearing supported the non-treaty quotas and season structure from Alternative I. Alternative I allows for time/area adjustments over quota reductions to meet conservation objectives. These commenters expressed support for inseason management as an invaluable tool to meet conservation objectives while allowing flexibility to attain the full quota. They also supported increased opportunities to help engage the younger generation and

promote commercial fishing as a viable livelihood. Those testifying on south of Cape Falcon commercial salmon fisheries at the Oregon hearing supported Alternative I. Significant investments have been made for the upcoming season, and this alternative would help recover the costs and give the fleet an opportunity to survive and support their families and communities. The written comments from California supported Alternative III (*i.e.*, closure of commercial salmon fishing) to support SRFC and KRFC stock recovery. Those testifying at the California hearing largely supported a hybrid of Alternative I and II. They suggested that conducting a small-scale fishery would allow the new management measures for California Coastal Chinook salmon to be implemented in a more controlled environment. This rule adopts commercial fishing measures north and south of Cape Falcon that are within the range of the alternatives considered.

Comments on alternatives for recreational fisheries. Those testifying on fishery management alternatives north of Cape Falcon favored Alternative I and Alternative III. Alternative I would give coastal communities a chance to rebuild after years of reduced fishing due to limited harvest quotas, while Alternative III allows for the best opportunity to meet conservation goals and shift opportunities to the guide communities that rely on them. Those commenting on fishery alternatives south of Cape Falcon in Oregon expressed a range of opinions on the alternatives that allow for two or three weeks of Chinook salmon retention spread out through June, July, and August. The majority of comments from California supported fishing under Alternative I. Fishing is important to them and their families; another year of closures would be harmful to their businesses. They also emphasized the importance of good management practices and urged the Council to explore ways to open even a small fishery. This final rule establishes recreational fishing measures north and south of Cape Falcon that are within the range of alternatives considered.

The final rule reflects consideration of these comments and generally includes aspects of all three alternatives, while considering the best available scientific information, the best use of limited opportunity given impacts to stocks of concern, and ensuring that fisheries are consistent with impact limits and accountability measures for ESA-listed species, ACLs and other MSA requirements, PST obligations, and Tribal fishing rights.

2025 Specifications and Management Measures

The ocean harvest levels and management measures for the 2025 fisheries are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries and to provide harvest opportunity of natural and hatchery runs surplus to inside fishery and spawning needs. Similar to 2024, commercial fisheries north of Cape Falcon, Chinook salmon quotas are higher due to a higher forecasted abundance for Lower Columbia River tle Chinook salmon. In 2025, coho salmon quotas will be comparatively lower due to the lower forecasted abundance of coho salmon stocks returning to the Oregon coast and Columbia River areas. Commercial fisheries south of Cape Falcon will be heavily constrained in Oregon and closed in California owing to its low abundance forecast for SRFC and KRFC. Based on the information provided in the four reports described above, the EA, and discussion at public meetings and taking into account public comments, NMFS concludes the recommended measures are consistent with the requirements of the MSA, the ESA, U.S. obligations to Indian Tribes with federally recognized fishing rights, and U.S. international obligations regarding Pacific salmon. Accordingly, NMFS, through this final rule, approves and implements the Council's recommendations.

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before mid-May of the same year. Therefore, this action also establishes the early season fisheries that open earlier than May 16, 2026. The commercial and recreational seasons are scheduled to open after May 15, 2025, as indicated in "Section 1. Commercial, Non-Indian, Troll Fishery Management Measures" and "Section 2. Recreational Fishery Management" of this final rule. NMFS may take inseason action to adjust the commercial and recreational seasons as needed. The Treaty Indian ocean troll seasons will open in 2025 as indicated in "Section 3. Treaty Indian Management Measures." In 2026, the Treaty Indian ocean troll season is scheduled to open May 1, consistent with all preseason regulations in place for Treaty Indian troll fisheries during May 16–June 30, 2025. This opening could be modified via inseason action.

Sections 1, 2, and 3 below set out the final specifications and management measures for the commercial,

recreational, and Treaty Indian ocean salmon fisheries for 2025 and, as specified, for 2026. Section 4 provides requirements for halibut retention; Section 5 provides geographical landmarks; and Section 6 specifies notice procedures for inseason modifications. Those elements of the measures set forth in sections 1 through 3 that refer to fisheries implemented prior to May 16, 2025, were promulgated in our 2024 rule (89 FR 44553, May 21, 2024; 89 FR 53529, June 27, 2024), as modified by inseason action, and are included for information only and to provide continuity for the public across fishing seasons and for States adopting conforming regulations each May that refer to the Federal rule for the same year.

As discussed above, aspects of these measures may be adjusted through inseason action taken under 50 CFR 660.409, based on information that becomes available during the season. Harvest guidelines and vessel-based landing and possession limits will be considered inseason. Inseason action to close fisheries, modify season dates, or modify vessel-based landing and possession limits may be considered when total commercial harvest in this management area is approaching its harvest guideline.

Section 1. Commercial, Non-Indian Fishery Management Measures

Parts A, B, and C of this section contain the requirements for participation in the 2025 commercial, non-Indian, salmon troll fishery. Part A identifies fishing seasons and areas from north to south, the salmon species and catch or landing limits allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies other requirements, definitions, restrictions, and exceptions.

Inseason modifications of the regulations may be necessary to address conditions arising during the fishing season. See 50 CFR 660.409.

A. Season, Area, and Species Descriptions

North of Cape Falcon, OR
Spring Season

May 16 through the earlier of June 29 or the attainment of 36,800 Chinook salmon. If the Chinook salmon quota is exceeded, the excess will be deducted from the summer all-salmon season described below.

Subarea guidelines are in place for the following areas:

U.S./Canada Border to Queets River

No more than 8,000 Chinook salmon.

Leadbetter Point to Cape Falcon

No more than 6,000 Chinook salmon.

Landing and possession limits are in place for the following areas and will be evaluated weekly, inseason. Landing week is Thursday through Wednesday.

U.S./Canada Border to Queets River

100 Chinook salmon per vessel per landing week.

Queets River to Leadbetter Point

No weekly Chinook salmon landing and possession limit.

Leadbetter Point to Cape Falcon

80 Chinook salmon per vessel per landing week.

Open seven days per week. All salmon, except coho salmon.

In 2026, the season will open May 1, consistent with all preseason regulations in place in this area and subareas during May 16–June 29, 2025, including subarea salmon guidelines and quotas and weekly vessel limits except as described below for vessels fishing or in possession of salmon north of Leadbetter Point.

Summer Season**U.S./Canada Border to Leadbetter Point**

July 1 through the earlier of September 15 or when attainment of the U.S./Canada Border to Cape Falcon quotas of 24,450 Chinook salmon or 8,280 marked coho salmon.

Leadbetter Point to Cape Falcon

July 1 through the earlier of September 30 or when attainment of the U.S./Canada Border to Cape Falcon quotas of 24,450 Chinook salmon or 8,280 marked coho salmon.

Open seven days per week. All salmon. All coho salmon must be marked with a healed adipose fin clip. No chum salmon retention north of Cape Alava, Washington, in August and September.

July 1–9: landing and possession limit of 60 marked coho salmon per vessel for the open period.

Beginning July 10: landing and possession limit of 60 marked coho salmon per vessel per landing week (Thursday–Wednesday).

Landing limits will be evaluated weekly inseason.

For all commercial troll fisheries north of Cape Falcon: Mandatory closed areas include the Salmon Troll Yelloweye Rockfish Conservation Area (YRCA), Cape Flattery, and Columbia Control Zones.

Vessels must land and deliver their salmon within 24 hours of any closure of this fishery. Vessels may not land fish east of the Sekiu River or east of Tongue Point, OR.

During any single trip, only one side of the Leadbetter Point line may be fished.

Vessels fishing for or in possession of salmon north of Leadbetter Point must land and deliver all species of fish in a Washington port and must possess a Washington troll and/or salmon delivery license. For delivery to Washington ports south of Leadbetter Point, vessels must notify the Washington Department of Fish and Wildlife (WDFW) at 360–249–1215 prior to crossing the Leadbetter Point line with area fished, total Chinook salmon, coho salmon, and halibut catch aboard, and destination with approximate time of delivery.

Vessels fishing or in possession of salmon south of Leadbetter Point must land and deliver all species of fish within the area and south of Leadbetter Point, except that Oregon permitted vessels may also land all species of fish in Garibaldi, OR. Washington permitted vessels may also land all species of fish north of Leadbetter Point. For delivery to Washington ports north of Leadbetter Point, vessels must notify WDFW at 360–249–1215 prior to crossing the Leadbetter Point line with area fished total Chinook salmon, coho salmon, and halibut catch aboard, and destination with approximate time of delivery. All Chinook salmon caught north of Cape Falcon and being delivered by boat to Garibaldi, OR, must meet the minimum legal total length of 28 inches (71.1 centimeters (cm)) for Chinook salmon for south of Cape Falcon seasons unless the season in waters off Garibaldi, OR, have been closed for Chinook salmon retention for more than 48 hours.

Under State law, vessels must report their catch on a State fish receiving ticket. Oregon State regulations require all fishers landing salmon into Oregon from any fishery between Leadbetter Point and Cape Falcon to notify the Oregon Department of Fish and Wildlife (ODFW) within 1 hour of delivery or prior to transport away from the port of landing by either calling 541–857–2546 or sending notification via email to nfalcon.trollreport@odfw.oregon.gov. Notification shall include vessel name and number, number of salmon by species, port of landing, location of delivery, and estimated time of delivery.

Vessels in possession of salmon may not cross the Queets River line without first notifying WDFW at 360–249–1215 with area fished, total Chinook salmon, coho salmon, and halibut catch abroad,

and destination. Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts.

Vessels fishing in a subarea north of Cape Falcon with a higher limit may transit through and land in a subarea with a lower limit. Prior to crossing the subarea line at Leadbetter Point or Queets River, vessels must notify WDFW at 360–249–1215 with the area fished, total Chinook salmon, coho salmon, and halibut catch aboard, and destination with approximate time of delivery.

South of Cape Falcon, OR**Cape Falcon to Heceta Bank Line**

June 9–30;

July 16–31.

Open seven days per week. All salmon, except coho salmon, except during the non-mark-selective coho salmon fishery as described below. All vessels fishing in the area must land their salmon in Oregon.

All fishers landing Chinook salmon south of the Heceta Bank Line are required to notify ODFW within one hour of delivery or prior to transport away from the port of landing by either calling 541–857–2546 or sending notification via email to nfalcon.trollreport@odfw.oregon.gov. Notification shall include vessel name and number, number of Chinook salmon, port of landing and location of delivery, and estimated time of delivery.

Cape Falcon to Humbug Mountain

May 16–31;

September 1–October 31.

Open seven days per week. All salmon except coho salmon, except during the non-mark-selective coho salmon fishery as described below. All vessels fishing in the area must land their salmon in Oregon.

Beginning September 1, all salmon until the earlier of September 30 or attainment of a 7,500 non-mark-selective coho salmon quota. If the coho salmon quota is met prior to September 30, then all salmon except coho salmon season continues. No more than 75 coho salmon per vessel per landing week when coho retention is allowed and no more than 75 Chinook salmon allowed per vessel per landing week (Thursday–Wednesday).

Oregon State regulations require all fishers landing coho salmon into Oregon from any fishery between Cape Falcon, OR, and Humbug Mountain to notify ODFW within one hour of delivery or prior to transport away from the port of landing by either calling 541–857–2546

or sending notification via email to nfalcon.trollreport@odfw.oregon.gov. Notification shall include vessel name and number, number of salmon by species, port of landing, location of delivery, and estimated time of delivery.

In 2026, the season will open on March 15 for all salmon except coho salmon. All vessels fishing in the area must land their salmon in the State of Oregon. Gear restrictions same as in 2025 (identified below).

Humbog Mountain to Oregon/California Border

Closed.

In 2026, the season will open on March 15 for all salmon except coho salmon. Gear restrictions are the same as in 202 (89 FR 44553, May 21, 2024; 89 FR 53529, June 27, 2024).

Oregon/California Border to Humboldt South Jetty (California Klamath Management Zone (KMZ))

Closed.

In 2026, the season will open May 1 through the earlier of May 31 or attainment of a 3,000 Chinook salmon quota. Landing and possession limit of 20 Chinook salmon per vessel per week. Open five days per week (Friday–Tuesday). All salmon except coho salmon. Any remaining portion of Chinook salmon quotas may be transferred inseason on an impact neutral basis to the next open quota period. All fish caught in this area must be landed within the area, within 24 hours of any closure of the fishery, and prior to fishing outside the area. Electronic Fish Tickets must be submitted within 24 hours of landing.

Klamath Control Zone closed. See California State regulations for an additional closure adjacent to the Smith River.

Humboldt South Jetty to Latitude 40°10' N

Closed.

Latitude 40°10' N to Point Arena (Fort Bragg)

Closed.

In 2026, the season opens on April 16 for all salmon except coho salmon. Gear restrictions are the same as in 2022 (87 FR 29690, May 16, 2022). Electronic Fish Tickets must be submitted within 24 hours of landing.

Point Arena to Pigeon Point (San Francisco)

Closed.

In 2026, the season opens May 1 for all salmon except coho salmon. Gear restrictions are the same as in 2022 (87 FR 29690, May 16, 2022) Harvest guidelines and vessel-based landing and possession limits will be considered inseason. Inseason action to close fisheries, modify season dates, or modify vessel-based landing and possession limits may be considered when total commercial harvest in this management area is approaching its harvest guideline. Electronic Fish Tickets must be submitted within 24 hours of landing.

Pigeon Point to the U.S./Mexico Border (Monterey)

Closed.

In 2026, the season opens May 1 for all salmon except coho salmon. Gear

restrictions same as in 2022 (87 FR 29690, May 16, 2022). Harvest guidelines and vessel-based landing and possession limits will be considered inseason. Inseason action to close fisheries, modify season dates, or modify vessel-based landing and possession limits may be considered when total commercial harvest in this management area is approaching its harvest guideline. Electronic Fish Tickets must be submitted within 24 hours of landing.

When the fishery is closed from Humbog Mountain to the Oregon/California border and open to the south, vessels with fish on board caught in the open area off California may seek temporary mooring in Brookings, OR, prior to landing in California only if such vessels first notify the Chetco River U.S. Coast Guard (USCG) Station via very high frequency (VHF) channel 22A between the hours of 0500 and 2200 and provide the vessel name, number of fish on board, and estimated time of arrival.

California State regulations require that all salmon be made available to a California Department of Fish and Wildlife (CDFW) representative for sampling immediately at the port of landing. Any person in possession of a salmon with a missing adipose fin, upon request by an authorized agent or employee of the CDFW, shall immediately relinquish the head of the salmon to the State (California Fish and Game Code section 8226).

B. Minimum Size (Total Length in Inches)

TABLE 1—MINIMUM SIZE LIMITS FOR SALMON IN THE 2025–2026 COMMERCIAL SALMON FISHERIES

	Chinook salmon		Coho salmon		Pink
	Total length	Head-off	Total length	Head-off	
Area (when open in 2025):					
North of Cape Falcon, OR	27	20.5	16	12	None.
Cape Falcon to Humbog Mountain	28	21.5	16	12	None.
Humbog Mountain to OR/CA border	28	21.5	.....	.....	None.
OR/CA border to Humboldt South Jetty .....	.....	.....	.....	.....	
Lat. 40°10'0" N to Point Arena .....	.....	.....	.....	.....	
Point Arena to Pigeon Point .....	.....	.....	.....	.....	
Pigeon Point to U.S./Mexico border .....	.....	.....	.....	.....	
Area (when open in 2026):					
North of Cape Falcon, OR .....	.....	.....	.....	.....	
Cape Falcon to Humbog Mountain	28	.....	.....	.....	
Humbog Mountain to OR/CA border	28	.....	.....	.....	
OR/CA border to Humboldt South Jetty	27	.....	.....	.....	
Lat. 40°10'0" N to Point Arena	27	.....	.....	.....	
Point Arena to Pigeon Point	27	.....	.....	.....	
Pigeon Point to U.S./Mexico border	27	.....	.....	.....	

Metric equivalents: 28.0 in = 71.1 cm, 27.0 in = 68.5 cm, 21.5 in = 54.6 cm, 20.5 in = 52.1 cm, 16.0 in = 40.6 cm, and 12.0 in = 30.5 cm.

C. Requirements, Definitions, Restrictions, or Exceptions

C.1. Compliance With Minimum Size or Other Special Restrictions

All salmon on board a vessel must meet the minimum size, landing/possession limit, or other special requirements for the area being fished and the area in which they are landed if the area is open or has been closed less than 48 hours for that species of salmon. Salmon may be landed in an area that has been closed for a species of salmon more than 48 hours only if they meet the minimum size, landing/possession limit, or other special requirements for the area in which they were caught. Salmon may not be filleted prior to landing.

Any person who is required to report a salmon landing by applicable State law must include on the State landing receipt for that landing both the number and weight of salmon landed by species. States may require fish landing/receiving tickets be kept on board the vessel for 90 days or more after landing to account for all previous salmon landings.

C.2. Gear Restrictions

a. Salmon may be taken only by hook and line using single point, single shank, barbless hooks.

b. Cape Falcon to the Oregon/California border: No more than four spreads are allowed per line.

c. Oregon/California border to U.S./Mexico border: No more than six lines are allowed per vessel, and barbless circle hooks are required when fishing with bait by any means other than trolling.

C.3. Gear Definitions

Trolling: Fishing from a boat or floating device that is making way by means of a source of power other than drifting by means of the prevailing water current or weather conditions.

Troll fishing gear: One or more lines that drag hooks behind a moving fishing vessel engaged in trolling. In that portion of the fishery management area off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Spread: A single leader connected to an individual lure and/or bait.

Circle hook: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

C.4. Vessel Operation in Closed Areas With Salmon on Board

a. Except as provided under C.4.b below, it is unlawful for a vessel to have troll fishing gear in the water while in any area closed to fishing for a certain species of salmon, while possessing that species of salmon; however, fishing for species other than salmon is not prohibited if the area is open for such species, and no prohibited salmon are in possession.

b. When Genetic Stock Identification (GSI) samples will be collected in an area closed to commercial salmon fishing, the scientific research permit holder shall notify NOAA Office of Law Enforcement, USCG, CDFW, WDFW, ODFW, and Oregon State Police at least 24 hours prior to sampling and provide the following information: the vessel name, date, location, and time collection activities will be done. Any vessel collecting GSI samples in a closed area shall not possess any salmon other than those from which GSI samples are being collected. Salmon caught for collection of GSI samples must be immediately released in good condition after collection of samples.

C.5. Control Zone Definitions

a. Cape Flattery Control Zone—The area from Cape Flattery (48°23'00" N lat.) to the northern boundary of the U.S. EEZ; and the area from Cape Flattery south to Cape Alava (48°10'00" N lat.) and east of 125°05'00" W long.

b. Salmon Troll Yelloweye Rockfish Conservation Area—The area in Washington Marine Catch Area 3 from 48°00.00' N lat.; 125°14.00' W long. to 48°02.00' N lat.; 125°14.00' W long. to 48°02.00' N lat.; 125°16.50' W long. to 48°00.00' N lat.; 125°16.50' W long. and connecting back to 48°00.00' N lat.; 125°14.00' W long.

c. Grays Harbor Control Zone—The area defined by a line drawn from the Westport Lighthouse (46°53'18" N lat., 124°07'01" W long.) to Buoy #2 (46°52'42" N lat., 124°12'42" W long.) to Buoy #3 (46°55'00" N lat., 124°14'48" W long.) to the Grays Harbor north jetty (46°55'36" N lat., 124°10'51" W long.).

d. Columbia Control Zone—An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N lat., 124°06'50" W long.) and the green lighted Buoy #7 (46°15'09" N lat., 124°06'16" W long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N lat., 124°03'07" W long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green

lighted Buoy #7 to the tip of the north jetty (46°15'48" N lat., 124°05'20" W long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N lat., 124°04'05" W long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

e. Klamath Control Zone—The ocean area at the Klamath River mouth bounded on the north by 41°38'48" N lat. (approximately 6 nmi (11 km) north of the Klamath River mouth); on the west by 124°23'00" W long. (approximately 12 nmi (22 km) off shore); and on the south by 41°26'48" N lat. (approximately 6 nmi (11 km) south of the Klamath River mouth).

f. Waypoints for the 40-fathom (73-meter) regulatory line from Cape Falcon to Humbug Mountain (50 CFR 660.71(o)(12) through (62)), when in place.

C.6. Notification When Unsafe Conditions Prevent Compliance With Regulations

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the USCG and receive acknowledgment of such notification prior to leaving the area. This notification shall include the name of the vessel, the port where delivery will be made, the approximate number of salmon (by species) on board, the estimated time of arrival, and the specific reason the vessel is not able to meet special management area landing restrictions.

In addition to contacting the USCG, vessels fishing south of the Oregon/California border must notify CDFW within 1 hour of leaving the management area by calling 800-889-8346 and providing the same information as reported to the USCG. All salmon must be offloaded within 24 hours of reaching port.

C.7. Incidental Halibut Harvest

Permit applications for incidental harvest for Pacific halibut during commercial salmon fishing must be obtained from NMFS.

a. Pacific halibut retained must be no less than 32 inches (81.3 cm) in total length, measured from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail, and must be landed with the head on.

b. During the salmon troll season, incidental harvest is allowed if quota is available. WDFW, ODFW, and CDFW will monitor landings. NMFS may make

inseason adjustments to the landing restrictions to assure that the incidental harvest rate is appropriate for salmon and halibut availability, does not encourage target fishing on halibut, and does not increase the likelihood of exceeding the quota for this fishery, and may prohibit retention of halibut in the non-Indian salmon troll fishery if there is risk in exceeding the subquota for the salmon troll fishery or the non-Tribal commercial fishery allocation. Inseason adjustments will be announced on the NMFS hotline (phone: 800-662-9825 or 206-526-6667).

c. Incidental Pacific halibut catch regulations in the commercial salmon troll fishery adopted for 2025, prior to any 2025 inseason action, will be in effect when incidental Pacific halibut retention opens on April 1, 2026, unless otherwise modified by inseason action at the March 2026 Council meeting.

d. Beginning May 16, 2025, through the end of the 2025 salmon troll fishery, and beginning April 1, 2026, until modified through inseason action or superseded by the 2026 management measures, permit holders may land or possess no more than one Pacific halibut per two Chinook salmon, except one Pacific halibut may be possessed or landed without meeting the ratio requirement, and no more than 35 halibut may be possessed or landed per trip.

e. "C-shaped" yelloweye rockfish conservation area is an area to be voluntarily avoided for salmon trolling. NMFS and the Council request salmon trollers voluntarily avoid this area in order to protect yelloweye rockfish. The area is defined in the Pacific Council Halibut Catch Sharing Plan in the North Coast subarea (Washington Marine Area 3), with the following coordinates in the order listed:

48°18' N lat.; 125°18' W long.;
48°18' N lat.; 124°59' W long.;
48°11' N lat.; 124°59' W long.;
48°11' N lat.; 125°11' W long.;
48°04' N lat.; 125°11' W long.;
48°04' N lat.; 124°59' W long.;
48°00' N lat.; 124°59' W long.;
48°00' N lat.; 125°18' W long.;
and connecting back to 48°18' N lat.;
125°18' W long.

C.8. Inseason Management

In addition to standard inseason actions or modifications:

a. Chinook salmon remaining from the May through June non-Indian commercial troll harvest guideline north of Cape Falcon may be transferred to the July through September harvest guideline if the transfer would not result in exceeding preseason impact expectations on any stocks.

b. Chinook salmon remaining from May, June, and/or July non-Indian commercial troll quotas in the Oregon or California KMZ may be transferred to the Chinook salmon quota for the next open period if the transfer would not result in exceeding preseason impact expectations on any stocks.

c. NMFS may transfer salmon between the recreational and commercial fisheries north of Cape Falcon if there is agreement among the areas' representatives on the Council's Salmon Advisory Subpanel (SAS), and if the transfer would not result in exceeding preseason impact expectations on any stocks.

d. The Council will consider inseason recommendations for special regulations for any experimental fisheries annually in March; proposals must meet Council protocol and be received in November of the year prior.

e. If retention of unmarked coho salmon (adipose fin intact) is permitted by inseason action, the allowable coho salmon quota will be adjusted to ensure preseason projected impacts on all stocks is not exceeded.

f. Landing limits may be modified inseason to sustain season length and keep harvest within overall quotas.

g. Deviations from the allocation of allowable ocean harvest of coho salmon in the area south of Cape Falcon may be allowed to meet consultation standards for ESA-listed stocks (FMP 5.3.2). Therefore, because 2025 fisheries are constrained to meet ESA-conservation objectives as described in the preamble to the rule, any rollovers resulting in a deviation from the south of Cape Falcon coho salmon allocation schedule would fall underneath this exemption.

C.9. State Waters Fisheries

Consistent with Council management objectives:

a. The State of Oregon may establish additional late-season fisheries in State waters.

b. The State of California may establish limited fisheries in selected State waters.

c. Check State regulations for details.

C.10. California KMZ Definition: For the purposes of California Fish and Game Code Section 8232.5, the California KMZ for the ocean salmon season is that area from Humboldt Mountain, OR, to Latitude 40°10' N.

C.11. Latitudes for geographical reference of major landmarks along the West Coast are listed in section 5 of this final rule.

C.12. California 24-hour reporting requirements: Salmon harvested under quota or harvest limit regulations must be reported within 24 hours of landing

via electronic fish tickets. Electronic fish tickets shall be completed at the time of the receipt, purchase, or transfer of fish, whichever occurs first, and shall contain the number of salmon landed. Once the transfer of fish begins, all fish aboard the vessel are counted as part of the landing. The electronic fish ticket is a web-based form submitted through the "E-Tix" application, managed by the Pacific States Marine Fisheries Commission and located at <https://etix.psmfc.org>.

Section 2. Recreational Fishery Management Measures

Parts A, B, and C of this section contain requirements for participation in the 2025 recreational ocean salmon fishery. Part A identifies fishing areas from north to south, the open seasons for the area, and the salmon species allowed to be caught during the seasons. Part B specifies minimum size limits. Part C specifies special requirements, definitions, restrictions, and exceptions. All measures are subject to inseason management. California State regulations require that all salmon be made available to a CDFW representative for sampling immediately at the port of landing. Any person in possession of a salmon with a missing adipose fin, upon request by an authorized agent or employee of the CDFW, shall immediately relinquish the head of the salmon to the State (California Code of Regulations title 14 section 1.73).

A. Season Description

North of Cape Falcon, OR

U.S./Canada Border to Cape Alava (Neah Bay Subarea)

June 21 through the earlier of September 15 or attainment of 12,600 Chinook salmon.

Open 7 days per week, June 21–July 3, all salmon except coho salmon, 1 salmon per day.

Beginning July 4, open 7 days per week, all salmon, with a subarea quota of 10,370 marked coho salmon, 2 salmon per day. No chum salmon retention beginning August 1. All coho salmon must be marked with a healed adipose fin clip.

Beginning August 1, no Chinook salmon retention east of the Bonilla-Tatoosh line during the ocean fishery.

Cape Alava to Queets River (La Push Subarea)

June 21 through the earlier of September 15 or attainment of 2,280 Chinook salmon.

Open seven days per week, June 21–July 3, all salmon except coho salmon, on 1 salmon per day.

Beginning July 4, open 7 days per week, all salmon, with a subarea quota of 2,590 marked coho salmon, 2 salmon per day. No chum salmon retention beginning August 1. All coho salmon must be marked with a healed adipose fin clip.

Queets River to Leadbetter Point (Westport Subarea)

June 21 through the earlier of September 15, with a subarea guideline of 22,270 Chinook salmon.

Open seven days per week, June 21–28, all salmon except coho salmon, 1 salmon per day.

Beginning June 29, open 7 days per week, all salmon, with a 36,900 marked coho salmon subarea quota, 2 salmon per day, no more than 1 of which may be a Chinook salmon. All coho salmon must be marked with a healed adipose fin clip.

Leadbetter Point to Cape Falcon (Columbia River Subarea)

June 25 through the earlier of September 30, or 49,860 marked coho salmon subarea quota, with a subarea guideline of 16,600 Chinook salmon.

Open seven days per week, all salmon, two salmon per day, no more than one of which may be a Chinook salmon. All coho salmon must be marked with a healed adipose fin clip.

Prior to June 25, possession of salmon on board a vessel is prohibited on days when the subarea is closed to salmon retention.

Columbia Control Zone closed.

South of Cape Falcon

Cape Falcon to Humbug Mountain

May 16–July 15

September 1–October 31.

Open 7 days per week. All salmon, except coho salmon, except during the mark-selective coho salmon fishery and the non-mark-selective coho salmon fishery as described below, two salmon per day. Starting June 7, 2 salmon limit, of which only 1 may be a Chinook salmon. After September 30 or attainment of the non-select fishery quota, all salmon except coho salmon, 1 salmon per day.

Non-mark selective coho salmon fishery:

September 1 through the earlier of September 30 or attainment of a 30,000 non-mark-selective coho salmon quota.

Beginning October 1, the fishery is only open shoreward of the 40-fathom (73 meters) management line.

Cape Falcon to Oregon/California Border

Mark-selective coho salmon fishery:

June 7 through the earlier of August 24 or attainment of a 44,000 marked coho salmon quota.

Open 7 days per week, 2 salmon per day. When Chinook salmon retention is allowed, only 1 may be a Chinook salmon. All retained coho salmon must be marked with a healed adipose fin clip.

Any remainder of the mark-selective coho salmon quota may be transferred inseason on an impact-neutral basis to the September non-mark-selective coho salmon fishery from Cape Falcon to Humbug Mountain.

In 2026, the season will open on March 15 for all salmon except coho salmon, 2 salmon per day. The same gear restrictions as in 2025.

Humbug Mountain to Oregon/California Border (Oregon KMZ)

May 16–June 6

June 30–July 15.

Open 7 days per week. All salmon except coho salmon, except during the mark-selective coho salmon fishery. From May 16–June 6, 2 fish per day. From June 30–July 15, 2 salmon per day, of which only 1 may be Chinook salmon.

From Cape Falcon to Humbug Mountain:

Fishing in the Stonewall Bank yelloweye rockfish conservation area restricted to trolling only on days the all-depth recreational halibut fishery is open (call the halibut fishing hotline 1–800–662–9825 for specific dates).

Oregon/California Border to Latitude 40°10' N (California KMZ)

June 7–8

July 5–6

July 31–August 3

August 25–31.

Inseason action may be taken to close open days when total Statewide harvest is approaching a Statewide harvest guideline of 7,000 Chinook salmon for the summer (June–August) season.

All salmon except coho salmon, 2 salmon per day. Klamath Control Zone closed in August. See California State regulations for additional closures adjacent to the Smith, Eel, and Klamath Rivers.

In 2026, the season opens May 1 for all salmon except coho salmon, 2 salmon per day. Inseason action to close fisheries, modify season dates, or modify the bag limit may be considered when sport harvest is approaching a harvest guideline.

Latitude 40°10' N to Point Arena (Fort Bragg)

June 7–8

July 5–6

July 31–August 3

August 25–31.

Inseason action may be taken to close open days when total Statewide harvest is approaching a Statewide harvest guideline of 7,000 Chinook salmon for the summer (June–August) season.

All salmon except coho salmon, 2 salmon per day.

In 2026, the season opens on April 4 for all salmon except coho salmon, 2 salmon per day. Inseason action to close fisheries, modify season dates, or modify the bag limit may be considered when harvest is approaching a harvest guideline.

Point Arena to Pigeon Point (San Francisco)

June 7–8

July 5–6

July 31–August 3

August 25–31.

Inseason action may be taken to close open days when total Statewide harvest is approaching a Statewide harvest guideline of 7,000 Chinook salmon for the summer (June–August) season.

Point Reyes to Pigeon Point Subarea

September 4–7, 29–30;

October 1–5, 27–31.

Inseason action may be taken to close open days when total Statewide harvest is approaching a Statewide harvest guideline of 7,500 Chinook salmon for the fall (September–October) season.

All salmon except coho salmon, 2 salmon per day.

In 2026, the season opens on April 4 for all salmon except coho salmon, 2 salmon per day. The same gear restrictions as in 2025. Inseason action to close fisheries, modify season dates, or modify the bag limit may be considered when harvest is approaching a harvest guideline.

Pigeon Point to U.S./Mexico Border (Monterey)

June 7–8

July 5–6

July 31–August 3

August 25–31.

Inseason action may be taken to close open days when total Statewide harvest is approaching a Statewide harvest guideline of 7,000 Chinook salmon for the summer (June–August) season.

Pigeon Point to Point Sur Subarea

September 4–7, 29–30.

Inseason action may be taken to close open days when total Statewide harvest

is approaching a guideline of 7,500 Chinook salmon for the fall (September–October) season.

All salmon except coho salmon, 2 salmon per day.

In 2026, the season opens on April 4 for all salmon except coho salmon, 2 salmon per day. The same gear restrictions as in 2025. Inseason action to close fisheries, modify season dates,

or modify the bag limit may be considered when harvest is approaching a harvest guideline.

B. Minimum Size (Total Length in Inches)

TABLE 2—MINIMUM SIZE LIMITS FOR SALMON IN THE 2025–2026 RECREATIONAL SALMON FISHERIES
[In inches]

	Chinook salmon	Coho salmon	Pink salmon
Area (when open in 2025):			
North of Cape Falcon (Neah Bay and La Push)	24.0	16.0	None.
North of Cape Falcon (Westport and Columbia River)	22.0	16.0	None.
Cape Falcon to Humbug Mountain	24.0	16.0	None.
Humbug Mountain to Oregon/California border	24.0	16.0	None.
Oregon/California border to Latitude 40°10' N	20.0	.....	20.0.
Latitude 40°10' N to Point Arena	20.0	.....	20.0.
Point Arena to Pigeon Point	20.0	.....	20.0.
Pigeon Point to U.S./Mexico border	20.0	.....	20.0.
Area (when open in 2026):			
North of Cape Falcon (Westport and Columbia River) .....	.....	.....	.....
North of Cape Falcon (Neah Bay and La Push) .....	.....	.....	.....
Cape Falcon to Oregon/California border	24.0	.....	.....
Oregon/California border to Latitude 40°10' N	20.0	.....	.....
Latitude 40°10' N to Point Arena	20.0	.....	.....
Point Arena to Pigeon Point	24.0	.....	.....
Pigeon Point to U.S./Mexico border	24.0	.....	.....

Metric equivalents: 24.0 in = 61.0 cm, 22.0 in = 55.9 cm, 16.0 in = 40.6 cm.

C. Requirements, Definitions, Restrictions, or Exceptions

C.1. Compliance With Minimum Size and Other Special Restrictions

All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught. Salmon may not be filleted or salmon heads removed prior to landing.

Ocean boat limits: Off the coast of Washington, Oregon, and California, each fisher aboard a vessel may continue to use angling gear until the combined daily limits of Chinook salmon and coho salmon for all licensed and juvenile anglers aboard have been attained (additional State restrictions may apply).

C.2. Gear Restrictions

Salmon may be taken only by hook and line using barbless hooks. All persons fishing for salmon and all persons fishing from a boat with salmon on board must meet the gear restrictions listed below for specific areas or seasons.

a. U.S./Canada border to Point Conception, CA: No more than one rod may be used per angler and no more than two single point, single shank,

barbless hooks are required for all fishing gear.

b. Latitude 40°10' N to Point Conception, CA: Single point, single shank, barbless circle hooks (see gear definitions below) are required when fishing with bait by any means other than trolling, and no more than two such hooks shall be used. When angling with two hooks, the distance between the hooks must not exceed 5 inches (12.7 cm) when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). Circle hooks are not required when artificial lures are used without bait.

C.3. Gear Definitions

a. Recreational fishing gear: Off Oregon and Washington, angling tackle consists of a single line that must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington. Off California, the line must be attached to a rod and reel held by hand or closely attended; weights directly attached to a line may not exceed 4 pounds (1.8 kilograms (kg)). While fishing off California north of Point Conception, no person fishing for salmon, and no person fishing from a boat with salmon on board, may use more than one rod and line. Fishing includes any activity which can

reasonably be expected to result in the catching, taking, or harvesting of fish.

b. Trolling: Angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

c. Circle hook: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

C.4. Control Zone Definitions

a. The Bonilla-Tatoosh Line: A line running from the western end of Cape Flattery to Tatoosh Island Lighthouse (48°23'30" N lat., 124°44'12" W long.) to the buoy adjacent to Duntze Rock (48°24'37" N lat., 124°44'37" W long.), then in a straight line to Bonilla Point (48°35'39" N lat., 124°42'58" W long.) on Vancouver Island, British Columbia.

b. Columbia Control Zone: An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N lat., 124°06'50" W long.) and the green lighted Buoy #7 (46°15'09" N lat., 124°06'16" W long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N lat., 124°03'07" W long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15'48" N lat., 124°05'20" W long. and then along the north jetty to the point of

intersection with the Buoy #10 line; and on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N lat., 124°04'05" W long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

c. *Stonewall Bank YRCA*: The area defined by the following coordinates in the order listed:

44°37.46' N lat.; 124°24.92' W long.
44°37.46' N lat.; 124°23.63' W long.
44°28.71' N lat.; 124°21.80' W long.
44°28.71' N lat.; 124°24.10' W long.
44°31.42' N lat.; 124°25.47' W long.
and connecting back to 44°37.46' N lat.; 124°24.92' W long.

d. *Klamath Control Zone*: The ocean area at the Klamath River mouth bounded on the north by 41°38'48" N lat. (approximately 6 nmi (11 km) north of the Klamath River mouth); on the west by 124°23'00" W long. (approximately 12 nmi (22 km) offshore); and, on the south by 41°26'48" N lat. (approximately 6 nmi (11 km) south of the Klamath River mouth).

e. Waypoints for the 40-fathom (73-meters) regulatory line from Cape Falcon to Humbug Mountain (50 CFR 660.71(o)(12) through (62)), when in place.

C.5. Inseason Management

Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines, and season duration. In addition to standard inseason actions or modifications, actions could include modifications to bag limits or days open to fishing and extensions or reductions in areas open to fishing.

a. Coho salmon may be transferred inseason among recreational subareas north of Cape Falcon to help meet the recreational season duration objectives for each subarea after conferring with representatives of the affected ports and the Council's SAS recreational representatives north of Cape Falcon and if the transfer would not result in exceeding preseason impact expectations on any stocks.

b. Salmon may be transferred between the recreational and commercial fisheries north of Cape Falcon if there is agreement among the areas' representatives of the SAS and if the transfer would not result in exceeding preseason impact expectations on any stocks.

c. Fishery managers may consider inseason action modifying regulations restricting retention of unmarked (adipose fin intact) coho salmon. To remain consistent with preseason expectations, any inseason action shall consider, if significant, the difference between observed and preseason forecasted (adipose-clipped) mark rates. Such a consideration may also include a change in bag limit of two salmon, no more than one of which may be a coho salmon.

d. Marked coho salmon remaining from the Cape Falcon to the Oregon/California Border: Recreational mark-selective coho salmon quota may be transferred inseason to the Cape Falcon to Humbug Mountain non-mark-selective recreational fishery if the transfer would not result in exceeding preseason impact expectations on any stocks.

e. Deviations from the allocation of allowable ocean harvest of coho salmon in the area south of Cape Falcon may be allowed to meet consultation standards for ESA-listed stocks (FMP 5.3.2). Therefore, any rollovers resulting in a deviation from the south of Cape Falcon coho salmon allocation schedule would fall underneath this exemption.

C.6. Additional Seasons in State Territorial Waters

Consistent with Federal management objectives for the EEZ off the U.S. West Coast, the States of Washington, Oregon, and California may establish limited seasons in State waters. Check State regulations for details.

C.7. Vessel Operation in Closed Areas With Salmon on Board

a. Except as provided under C.7.b and C.7.c below, it is unlawful for a vessel to fish while in any area closed to

fishing for a certain species of salmon while possessing that species of salmon; however, fishing for species other than salmon is allowed if the area is open for such species and no prohibited salmon are in possession.

b. It is unlawful to possess a salmon species within the Oregon KMZ when the fishing for that salmon species is prohibited within the Oregon KMZ, regardless of where taken.

c. It is unlawful to possess a salmon species within the California KMZ when the fishing for that salmon species is prohibited within the California KMZ, regardless of where taken.

Section 3. Treaty Indian Management Measures

Parts A, B, and C of this section contain the requirements for participation in the 2025 Treaty Indian salmon fishery.

In 2026, the season will open May 1, consistent with all preseason regulations in place for Treaty Indian Troll fisheries during May 16–June 30, 2025. All catch in May 2026 applies against the 2026 Treaty Indian Troll fisheries quota. This opening could be modified following review at the March and/or April 2026 Council meetings.

A. Season Descriptions

May 1 through the earlier of June 30 or the harvest of 22,500 Chinook salmon quota.

All salmon may be retained except coho salmon. If the Chinook salmon quota is exceeded, the excess will be deducted from the later all-salmon season.

July 1 through the earlier of a date in September to be established in Tribal regulations or attainment of the 22,500 Chinook salmon quota or 37,500 coho salmon quota.

All salmon.

B. Minimum Size (Inches)

TABLE 3—MINIMUM SIZE LIMITS FOR SALMON IN THE 2025 TREATY INDIAN OCEAN SALMON FISHERIES
[In inches]

Area (when open)	Chinook salmon		Coho salmon		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon	24.0	18.0	16.0	12.0	None.

Metric equivalents: 24.0 in = 61.0 cm, 18.0 in = 45.7 cm, 16.0 in = 40.6 cm, 12.0 in = 30.5 cm.

C. Requirements, Definitions, Restrictions, or Exceptions

C.1. Tribe and Area Boundaries

All boundaries may be changed to include such other areas as may hereafter be authorized by a Federal court for that Tribe's treaty fishery.

S'Klallam—Washington State Statistical Area 4B (defined to include those waters of Puget Sound easterly of a line projected from the Bonilla Point light on Vancouver Island to the Tatoosh Island light, thence to the most westerly point on Cape Flattery and westerly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River [WAC 220–301–030]).

Makah—Washington State Statistical Area 4B and that portion of the Fishery Management Area (FMA) north of 48°02'15" N lat. (Norwegian Memorial) and east of 125°44'00" W long.

Quileute—A polygon commencing at Cape Alava, located at lat. 48°10'00" N, long. 124°43'56.9" W; then proceeding west approximately 40 nmi (74 km) at that latitude to a northwestern point located at lat. 48°10'00" N, long. 125°44'00" W; then proceeding in a southeasterly direction mirroring the coastline at a distance no farther than 40 nmi (74 km) from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at lat. 47°31'42" N, long. 125°20'26" W; then proceeding east along that line of latitude to the Pacific coast shoreline at lat. 47°31'42" N, long. 124°21'9.0" W.

Hoh—A polygon commencing at the Pacific coast shoreline near the mouth of the Quillayute River, located at lat. 47°54'30" N, long. 124°38'31" W; then proceeding west approximately 40 nmi (74.08 km) at that lat. to a northwestern point located at lat. 47°54'30" N, long. 125°38'18" W; then proceeding in a southeasterly direction mirroring the coastline at a distance no farther than 40 nmi (74.08 km) from the mainland Pacific coast shoreline, to a point located at lat. 47°31'42" N, long. 125°20'26" W, then proceeding east along that line of lat. approximately 10 nmi (18.52 km) to a point located at latitude 47°31'42" N, long. 125°5'48" W, then proceeding in a southeasterly direction mirroring the coastline at a distance no farther than 30 nmi (55.56 km) from the mainland Pacific coast shoreline to a point located at lat. 47°21'00" N, long. 125°2'52" W; then proceeding east along that line of lat. to the Pacific coast shoreline near the mouth of the Quinault River, located at lat. 47°21'00" N, long. 124°18'8" W.

Quinault—A polygon commencing at the Pacific coast shoreline near

Destruction Island, located at lat. 47°40'06" N, long. 124°23'51.362" W; then proceeding west approximately 30 nmi (55.6 km) at that latitude to a northwestern point located at lat. 47°40'06" N, long. 125°08'30" W; then proceeding in a southeasterly direction mirroring the coastline no farther than 30 nmi (55.6 km) from the mainland Pacific coast shoreline at any line of latitude to a southwestern point at lat. 46°53'18" N, long. 124°53'53" W; then proceeding east along that line of latitude to the Pacific coast shoreline at lat. 46°53'18" N, long. 124°7'36.6" W.

C.2. Gear Restrictions

a. Single point, single shank, barbless hooks are required in all fisheries.

b. No more than eight fixed lines per boat.

c. No more than four hand-held lines per person in the Makah area fishery (Washington State Statistical Area 4B and that portion of the FMA north of 48°02'15" N lat. (Norwegian Memorial) and east of 125°44'00" W long.)

C.3. Quotas

a. The quotas include troll catches by the S'Klallam and Makah Tribes in Washington State Statistical Area 4B from May 1 through the earlier of a date in September, to be established in Tribal regulations, or the harvest of 22,500 Chinook salmon quota or 37,500 coho salmon quota.

b. The Quileute Tribe may continue a ceremonial and subsistence fishery during the time frame of October 1 through October 15 in the same manner as in 2004–2015. Fish taken during this fishery are to be counted against treaty troll quotas established for the 2025 season (estimated harvest during the October ceremonial and subsistence fishery: 20 Chinook salmon; 40 coho salmon).

c. The treaty troll Tribes may conduct an experimental fishery through the month of September for gathering genetic stock identification (GSI) data to inform the treaty troll fishery in future years. Impacts from this non-retention fishery are accounted for in the modeling associated with the treaty troll fishery.

C.4. Area Closures

a. The area within a 6 nmi radius of the mouths of the Queets River (47°31'42" N. lat.) and the Hoh River (47°45'12" N. lat.) is closed to commercial fishing.

b. A closure within 2 nmi of the mouth of the Quinault River (47°21'00" N. lat.) may be enacted by the Quinault Nation and/or the State of Washington

and will not adversely affect the Federal management regime.

C.5. Inseason Management

In addition to standard inseason actions or modifications, Chinook salmon remaining from the May through June treaty-Indian ocean troll harvest guideline north of Cape Falcon may be transferred to the July through September harvest guideline on a fishery impact equivalent basis.

Section 4. Halibut Retention

Vessels participating in the commercial salmon non-Indian troll fishery in Area 2A that have obtained the appropriate permit may retain halibut caught incidentally during authorized periods in conformance with the Pacific Halibut Fisheries Catch Sharing Plan 2025 annual management measures (90 FR 13293, March 21, 2025). An ocean salmon troller may participate in the halibut incidental catch fishery during the salmon troll season or in the directed commercial fishery targeting halibut but not both.

If the sub-quota for this fishery has not been harvested during the April-June portion of the salmon troll fishery, then incidental halibut harvest will be allowed in July and continue until the amount of halibut that was initially available as the quota for the non-Indian salmon troll fishery is taken or until the end of the season date for commercial halibut is determined by NMFS and implemented in the **Federal Register** (typically early October). If the landings are projected to exceed the 45,797 pounds (20,773 kg) preseason allocation to the salmon troll fishery or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to prohibit retention of halibut in the non-Indian salmon troll fishery.

Incidental halibut harvest regulations, including season dates, management measures, and total allowable catch for each International Pacific Halibut Commission management area, are listed under C.7 of section 1 of this final rule.

Section 5. Geographical Landmarks

Geographical landmarks referenced in this rule are at the following locations:

U.S./Canada border ..	49°00'00" N lat.
Cape Flattery, WA	48°23'00" N lat.
Cape Alava, WA	48°10'00" N lat.
Queets River, WA	47°31'42" N lat.
Leadbetter Point, WA ..	46°38'10" N lat.
Cape Falcon, OR	45°46'00" N lat.
South end Heceta Bank Line, OR.	43°58'00" N lat.
Humbag Mountain, OR.	42°40'30" N lat.
Oregon-California border.	42°00'00" N lat.

Humboldt South Jetty, CA.	40°45'53" N lat.
40°10' line (near Cape Mendocino, CA).	40°10'00" N lat.
Horse Mountain, CA	40°05'00" N lat.
Point Arena, CA	38°57'30" N lat.
Point Reyes, CA	37°59'44" N lat.
Point San Pedro, CA	37°35'40" N lat.
Pigeon Point, CA	37°11'00" N lat.
Point Sur, CA	36°18'00" N lat.
Point Conception, CA.	34°27'00" N lat.
U.S./Mexico border ..	34°27'00" N lat.

Section 6. Inseason Notice Procedures

Notice of inseason management actions will be provided by a telephone hotline administered by the WCR, NMFS, 800-662-9825 or 206-526-6667, and by USCG Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be published in the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishers should monitor either the telephone hotline or USCG broadcasts for current information for the area in which they are fishing.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the MSA. In a previous action taken pursuant to section 304(b), the Council designed the FMP to authorize NMFS to take this action pursuant to MSA section 305(d). See 50 CFR 660.408. These regulations are being promulgated under the authority of 16 U.S.C. 1855(d) and 16 U.S.C. 773(c).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule is not an Executive Order 14192 regulatory action because it is a routine fishing action under the Magnuson-Stevens Fishery Conservation and Management Act.

The Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(b)(B) to waive the requirement for prior notice and opportunity for public comment, as such procedures would be impracticable and contrary to the public interest.

The annual salmon management cycle begins May 16 and continues through May 15 of the following year. The time frame of the preseason process for determining the annual modifications to ocean salmon fishery management measures depends on when the

pertinent biological data are available. For the 2025 fishing regulations, the current stock abundance was not available until February. Salmon stocks are managed to meet annual spawning escapement goals or specific exploitation rates. Achieving either of these objectives requires designing management measures that are appropriate for the ocean abundance predicted for that year. These pre-season abundance forecasts, which are derived from previous years' observed spawning escapement, vary substantially from year to year and are not available until February because spawning escapement continues through the fall and early winter.

The planning and public review process associated with developing the regulations is initiated in February as soon as the forecast information becomes available. The process requires coordination of management actions of four States, numerous Indian Tribes, and the Federal Government, as well as consideration of information from the Pacific Salmon Commission and Canadian managers whose fisheries harvest salmon stocks caught in PFM fisheries. That information is not available until April 1 of each year. All of these entities have management authority over the stocks. This complex process includes the affected user groups as well as the general public. Providing the opportunity for prior notice and public comments on the measures through a proposed and final rulemaking process would require 30 to 60 days in addition to the 2-month period required for the development of the regulations. Delaying the implementation of annual fishing regulations, which are based on the current stock abundance projections, for an additional 30-60 days would require that fishing regulations for May and June be set in the previous year, without the benefit of information regarding current stock abundance. Because a substantial amount of fishing normally occurs during late May and June, managing the fishery with measures developed using the prior year's data could have significant adverse effects on the managed stocks, including ESA-listed stocks. Although salmon fisheries that open prior to May 16 are managed under measures developed the previous year (with some inseason modifications), relatively little harvest occurs during that period (*e.g.*, on average, 10 percent of commercial and recreational harvest occurred prior to May 1 during the years 2018 through 2024). Allowing the much more substantial harvest levels normally

associated with the late May and June salmon seasons to be promulgated under the prior year's regulations would impair NMFS's ability to protect weak and ESA-listed salmon stocks and to provide harvest opportunities where appropriate. The choice of May 16 as the beginning of the regulatory season balances the need to gather and analyze the data needed to meet the management objectives of the salmon FMP and the need to manage the fishery using the best available scientific information.

If the 2025 measures are not in place on May 16, salmon fisheries will not open as scheduled. This would result in lost fishing opportunities, negative economic impacts, and confusion for the public as the State fisheries adopt concurrent regulations that conform to the Federal management measures.

In addition, these measures were developed with significant public input. As described above, 311 oral and written public comment were received and considered throughout the process of developing these management measures. Based upon the above-described public comment already received and the need to have these measures effective on May 16, NMFS has concluded it would be impracticable and contrary to the public interest to provide an opportunity for prior notice and public comment under 5 U.S.C. 553(b)(B).

The Assistant Administrator for Fisheries also finds that good cause exists under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the date of effectiveness of this final rule. As previously discussed, essential data were not available until February, and management measures were not finalized until mid-April. These measures are essential to conserve threatened and endangered salmon stocks and other ESA-listed species affected by Council fisheries, rebuild overfished stocks, and to provide for the harvest of more abundant salmon stocks. Delaying the date of effectiveness of these measures by 30 days could compromise the ability of some stocks to attain their conservation objectives, preclude harvest opportunity, and negatively impact anticipated international, State, and Tribal salmon fisheries, thereby undermining the purposes of this agency action and the requirements of the MSA.

To enhance the fishing industry's notification of these new measures, and to minimize the burden on the regulated community required to comply with the new regulations, NMFS is announcing the new measures over the telephone

hotline (800–662–9825 or 206–526–6667) used for inseason management actions and is posting the regulations on its WCR website (<https://www.fisheries.noaa.gov/action/fisheries-west-coast-states-west-coast-salmon-fisheries-2025-management-measures>).

NMFS is also advising the States of Washington, Oregon, and California of the new management measures. These States announce the seasons for applicable State and Federal fisheries through their own public notification systems.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule, and none has been

prepared. This action contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by the Office of Management and Budget (OMB) under control number 0648–0433. The current information collection approval expires on November 30, 2026. The public reporting burden for providing notifications if landing area restrictions cannot be met is estimated to average 15 minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply

with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This final rule was developed after meaningful consultation with the Tribal representative on the Council, who has agreed with the provisions that apply to Tribal vessels, and representatives of several Tribes participated in the Council meeting and provided testimony on the management measures.

Authority: 16 U.S.C. 773–773k; 1801 *et seq.*

Dated: May 12, 2025.

Samuel D. Rauch III,

*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

[FR Doc. 2025–08741 Filed 5–13–25; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 90, No. 94

Friday, May 16, 2025

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

[Docket No. FNS–2025–0006]

RIN 0584–AF19

Supplemental Nutrition Assistance Program: Rescission of Changes to Civil Rights Data Collection Methods

AGENCY: Food and Nutrition Service (FNS), Department of Agriculture (USDA).

ACTION: Notice of proposed rulemaking.

SUMMARY: FNS is proposing to rescind Supplemental Nutrition Assistance Program: Revision of Civil Rights Data Collection Methods regulations, issued as a final rule on December 14, 2023.

DATES: Comments must be received within 30 days of publication of this document in the **Federal Register**.

ADDRESSES: Comments must be submitted through the Federal eRulemaking portal at <http://www.regulations.gov> and should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this document will be included in the record and will be made available to the public. Please be advised that the identity of individuals or entities submitting comments will be made public on the internet at the address provided above. A plain language summary of this notice of proposed rule is available at <https://www.regulations.gov> in the docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: James C. Miller, Administrator, Food and Nutrition Service, at (703) 305–2060, or James.Miller@usda.gov with a subject line of “RIN 0584–AF19”.

SUPPLEMENTARY INFORMATION: FNS is proposing to rescind revisions to Supplemental Nutrition Assistance Program (SNAP) regulations that cover collecting and reporting race and

ethnicity data by State agencies on persons receiving benefits from SNAP adopted by FNS on December 14, 2023, via 88 FR 86563, with an effective date of February 12, 2024, and codified in 7 CFR part 272. The regulation removed regulatory language that provides an example that State agencies might collect race and ethnicity data by observation (also referred to as “visual observation”) when participants do not voluntarily provide the information on the application form. Further, it prohibited using visual observation as a data collection method for race and ethnicity.

We propose to rescind the rule and seek comment on that proposal.

Procedural Matters

Executive Orders 12866 and 14192

As with the rule proposed for rescission, this rule does not meet the criteria of a “significant regulatory action” under Executive Order 12866, as supplemented by Executive Order 13563 and updated by Executive Order 14094. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under those orders.

This regulation is not an E.O. 14192 regulatory action.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). FNS has concluded and hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

This rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and Tribal governments, or the private sector of \$100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. FNS has determined that this rule has no intended impact on Tribal nations.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule is deregulatory and so would not impose any additional information collection requirements.

E-Government Act Compliance

The Department is committed to complying with the E-Government Act, 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federalism Summary Impact Statement

The proposed rule is deregulatory and has little effect on States and local governments, so FNS anticipates that this rule will not have implications for federalism. Therefore, under Section 6(b) of the Executive Order, a federalism summary is not required. States and local governments are invited to comment if they believe a federalism summary is necessary.

List of Subjects in 7 CFR Part 272

Civil rights, Claims, Grant programs—social programs, Reporting and recordkeeping requirements, Unemployment compensation, Wages.

Accordingly, the Food and Nutrition Service proposes to amend 7 CFR part 272 as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

■ 1. The authority citation for Part 272 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

■ 2. Amend § 272.6 by revising paragraph (g) to read as follows:

§ 272.6 Nondiscrimination compliance.

* * * * *

(g) *Data collection.* The State agency must obtain racial and ethnic data on participating households in the manner specified by FNS. The application form must clearly indicate that the information is voluntary, that it will not affect the eligibility or the level of benefits, and that the reason for the information is to assure that program benefits are distributed without regard to race, color, or national origin. The State agency must develop alternative means of collecting ethnic and racial data on households, such as by observation during the interview, when the information is not provided voluntarily by the household on the application form.

* * * * *

James C. Miller,
Administrator.

[FR Doc. 2025–08797 Filed 5–15–25; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF ENERGY

10 CFR Part 205

[DOE–HQ–2025–0019]

RIN 1901–AB69

Application for Authorization To Transmit Electric Energy to a Foreign Country

AGENCY: Grid Deployment Office; Department of Energy (DOE).

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: DOE is proposing to amend existing provisions regarding authorization to transmit electric energy to a foreign country.

DATES: Comments must be received on or before July 15, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0019. Follow the instructions for submitting comments. The docket for this proposed rule, which includes **Federal Register** notices, comments, and other

supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0019. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary. In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at www.regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
- III. Approval of the Secretary

I. General Discussion

DOE is proposing to amend the application process codified in 10 CFR 205.300 through 309. Statutory authority for these sections can be found at 16 U.S.C. 824(e) which establishes that no person shall transmit any electric energy from the United States to a foreign country without first having secured an order of the Secretary authorizing it to do so. Extensive regulations established in response to 16 U.S.C. 824(e), which are now also out of date, impose economic, administrative and procedural burdens on applicants. Such burdens impede private enterprise and entrepreneurship and run contrary to the President's goal of unleashing

American energy. Executive Order (E.O.) 14154.

Further, Executive Order 14192, Unleashing Prosperity Through Deregulation, explicitly makes it “the policy of the executive branch . . . to alleviate unnecessary regulatory burdens placed on the American people.” Such burdens “are often difficult for the average person or business to understand, as they require synthesizing the collective meaning not just of formal regulations but also rules, memoranda, administrative orders, guidance documents, policy statements, and interagency agreements that are not subject to the Administrative Procedure Act, further increasing compliance costs and the risk of costs of non-compliance.” *Id.* The Secretary is therefore proposing to reduce regulatory burden wherever possible.

Accordingly, DOE proposes to amend the aforementioned sections to reduce burden and remove out of date requirements while simultaneously bolstering American energy dominance by increasing exports and subsequently the reliance of foreign nations on American energy. The amended rule will simply allow applicants to include information the applicant deems relevant to such an authorization for consideration by the DOE under the Federal Power Act. DOE will endeavor to expeditiously approve applications. DOE seeks comment on all aspects of that proposal, including but not limited to the prior rule's consistency with statutory authority and the Constitution, national security, whether the prior rules are out of date, the prior rule's costs and benefits, and the prior rule's effect on small business, entrepreneurship and private enterprise.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or

manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed the proposed amendment under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates requirements. Therefore, DOE initially concludes that the impacts thereof would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed amendment imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include

categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed amendment and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for

affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed amendment would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed amendment under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any

successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the proposed rule, and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposal and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,”; E.O. 14219 “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposal, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Approval of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and request for comment.

List of Subjects in 10 CFR Part 205

Administrative practice and procedure, Electric power, Electric utilities, Energy, Environmental protection, Exports, Foreign relations.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this

document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE proposes to amend part 205 of chapter II, subchapter A as follows:

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

■ 1. The authority for part 205 continues to read as follows:

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159; Federal Energy Administration Act of 1974, Pub. L. 93–275 (88 Stat. 96; E.O. 11790, 39 FR 23185); 42 U.S.C. 7101 *et seq.*, unless otherwise noted. Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101); Pub. L. 66–280, 41 Stat. 1063 (16 U.S.C. 792 *et seq.*); E.O. 10485, 18 FR 5397, 3 CFR, 1949–1953, Comp., p. 970 as amended by E.O. 12038, 43 FR 4957, 3 CFR 1978 Comp., p. 136; Department of Energy Delegation Order No. 00–002.00Q (Nov. 1, 2018).

■ 2. Revise § 205.300 to read as follows:

§ 205.300 Who shall apply.

To obtain authorization to transmit any electric energy from the United States to a foreign country, an electric utility or other entity subject to DOE jurisdiction under part II of the Federal Power Act must submit an application or be a party to an application submitted by another entity. The application shall include information the applicant deems relevant to DOE’s determination under section 202(e) in the Federal Power Act. DOE has a strong policy in favor of approving applications, and doing so quickly and expeditiously.

§§ 205.301 through 205.309 [Removed and Reserved]

■ 3. Remove and reserve §§ 205.301 through 205.309.

[FR Doc. 2025–08555 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 300

[EERE–2025–OT–0034]

RIN 1904–AG05

Rescinding Reporting Requirements, Certification, Independent Verification, and DOE Review for Voluntary Greenhouse Gas Reporting

AGENCY: U.S. Energy Information Administration, Department of Energy.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Department of Energy (DOE or the Department) is proposing to rescind reporting requirements, certification, independent verification, and DOE review for the Voluntary Greenhouse Gas Reporting Program. DOE seeks all comments on any aspects of this proposal.

DATES: *Comments:* Written comments and information are requested and will be accepted on or before June 16, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–OT–0034. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–OT–0034 and or regulatory identification number (RIN) 1904–AG05, by any of the following methods: (1) *Email:*

GreenhouseGas2025OT0034@ee.doe.gov. Include the docket number EERE–2025–OT–0034 and/or RIN 1904–AG05 in the subject line of the message. Submit electronic comments in Microsoft Word, Excel or PDF file format, and avoid the use of special characters or any form of encryption.

No telefacsimiles (faxes) will be accepted.

Docket: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-OT-0034. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number EERE–2025–OT–0034.

FOR FURTHER INFORMATION CONTACT: U.S. Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: EIA-FRNComments@eia.gov.

Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel,

GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
- III. Approval of the Office of the Secretary

I. Discussion

The Voluntary Greenhouse Gas Reporting Program allows corporations, government agencies, other public and private entities, and even households to file voluntary reports about their greenhouse gas emissions. DOE regulations set the requirements for, and DOE intake of, these reports. DOE regulations set a specific deadline for annual reports, require entities to maintain adequate records, and follow detailed procedures to revise reports. 10 CFR 300.9. DOE regulations require a detailed certification statement. 10 CFR 300.10. DOE regulations also encourage independent verification of reports by professional verifiers. 10 CFR 300.11. Furthermore, DOE regulations require review of “all reports for completeness, internal consistency, arithmetic accuracy and plausibility.” 10 CFR 300.12. DOE is proposing to rescind these reporting requirements, certification statements, the encouragement of independent verification, and DOE review. The regulations will retain, consistent with 42 U.S.C. 13385, detailed procedures for voluntarily calculating and submitting greenhouse gas emissions, codified in the rest of 10 CFR part 300. DOE seeks comment on all aspects of that proposal, including but not limited to 10 CFR part 300’s consistency with statutory authority and the constitution, the costs and benefits, and the part’s effect on innovation, development, and private enterprise.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates requirements. Therefore, DOE initially concludes that the impacts of the proposed action would not have a “significant economic impact on a substantial number of small entities,”

and, therefore, the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed action imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposal and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA") requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State,

local, and Tribal governments on a "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to

OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. DOE will assess the need for preparation of a Statement of Energy Effects under E.O. 13211.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rescission, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking; request for comment.

List of Subjects in 10 CFR Part 300

Administrative practice and procedure, Energy, Greenhouse gases, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treana V. Garrett,

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

For the reasons set forth in the preamble, DOE is proposing to amend part 300 of chapter II, subchapter B, of title 10 of the Code of Federal Regulations, as set forth:

PART 300—VOLUNTARY GREENHOUSE GAS REPORTING PROGRAM: GENERAL GUIDELINES

- 1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 7101, *et seq.*, and 42 U.S.C. 13385(b).

§ 300.9 [Removed and reserved]

- 2. Remove and reserve § 300.9.

§ 300.10 [Removed and reserved]

- 3. Remove and reserve § 300.10.

§ 300.11 [Removed and reserved]

- 4. Remove and reserve § 300.11.

§ 300.12 [Removed and reserved]

- 5. Remove and reserve § 300.12.

[FR Doc. 2025–08585 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 429

[EERE–2025–BT–STD–0010]

RIN 1904–AF80

Energy Conservation Program: Exempt Power Supplies Under the EPS Service Parts Act of 2014

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: DOE is proposing to revise its existing regulations regarding the reporting requirements imposed on exempt consumer external power supplies adopted under the Energy Policy and Conservation Act, as amended (“EPCA”).

DATES:

Comments: Written comments and information are requested and will be accepted on or before July 15, 2025.

Meeting: DOE will hold a meeting via a webinar on Thursday, May 29, 2025, from 1:00 p.m. to 4:00 p.m. See section III of this document, “Public Participation,” for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number 1904–AF80. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0010 and or regulatory identification number RIN 1904–AF80, by any of the following methods:

(1) **Email:** EPS2025STD0010@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0010 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) **Postal Mail:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(3) **Hand Delivery/Courier:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document, “Public Participation.”

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at

www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0010. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section III of this document, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: David.Taggert@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in the Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind, in part, the rule adopted by DOE on May 16, 2016, titled “Energy Conservation Program: Exempt External Power

Supplies Under the EPS Service Parts Act of 2014,” codified in title 10 of the Code of Federal Regulations (“CFR”) parts 429 and 430. See 81 FR 30157. In the EPS Service Parts Act of 2014, Public Law 113-263, Congress authorized the Secretary of Energy to require manufacturers of exempted products to report the annual total units that were shipped as service or spare parts and either fall below the International Efficiency Level VI standard or failed to meet amended energy conservation standards set by the DOE under the Energy Conservation Program. DOE is proposing a new policy to reduce regulatory burden wherever possible. Unless a reporting requirement is required by statute, the Secretary proposes eliminating that requirement. Therefore, DOE proposes to rescind this rule in its entirety and seek comment on all aspects of that proposal, including but not limited to the prior rule’s consistency with statutory authority and the constitution, the prior rule’s costs and benefits, and the prior rule’s effect on innovation, development, and private enterprise.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility

analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal proposes to remove reporting requirements. Therefore, DOE initially concludes that the impacts of the proposed rule would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rule imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required

review and determined that, to the extent permitted by law, this proposed rescission meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule and seeks all comments

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.²

¹ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule rescission, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA.

methods-for-setting-building-and-equipment-performance-standards.

(42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your

contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and request for comment.

List of Subjects in 10 CFR Part 429

Administrative practice and procedure, Confidential business

information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE proposing to amend part 429 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§ 429.37 [Amended]

■ 2. Amend § 429.37 is by removing and reserving paragraphs (b)(3) and (c).

[FR Doc. 2025–08579 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[EERE–2025–BT–DET–0016]

RIN 1904–AF86

Energy Conservation Program: Proposed Withdrawal of Determination of Air Cleaners as a Covered Consumer Product

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed withdrawal of determination; request for comments.

SUMMARY: DOE is proposing to withdraw its prior determination that portable air cleaners qualify as covered products under Part A of Title III of the Energy Policy and Conservation Act, as amended (“EPCA”).

DATES:

Comments: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a meeting via a webinar on Thursday, May 29, 2025, from 1 to 4 p.m. See section III, “Public Participation,” for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–DET–0016. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–DET–0016, by any of the following methods:

(1) *Email:* AirCleaners2025DET0016@ee.doe.gov. Include the docket number EERE–2025–BT–DET–0016 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* *Appliance and Equipment Standards Program*, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* *Appliance and Equipment Standards Program*, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index.

However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-DET-0016. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section III of this document, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

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Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in the Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Webinar
 - D. Submission of Comments
 - E. Issues on Which DOE Seeks Comments/Approval of the Office of the Secretary
- IV. Approval of the Office of the Secretary

I. General Discussion

Under EPCA, DOE may add consumer products to the list of covered products for which energy conservation standards

can be established. (42 U.S.C. 6292(b)(1)) The coverage determination procedures require DOE to conclude that classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this chapter, among other requirements. (42 U.S.C. 6292(b)(1)(A)) Only after coverage is determined, DOE may then adopt standards and test procedures regulating such products, pursuant to the requirements set out in the statute. (See generally 42 U.S.C. 6293, 6295)

On September 16, 2021, DOE published in the **Federal Register** a notice of proposed determination (NOPD) that proposed to determine coverage for air cleaners. 86 FR 51629 (“September 2021 NOPD”). After considering public comments, data, and information from interested parties submitted in response to the September 2021 NOPD, DOE finalized the coverage determination for air cleaners. 87 FR 42297 (July 15, 2022) (“July 2022 Determination”). As part of the determination, DOE adopted a definition of “air cleaners.”

DOE has reevaluated whether including air cleaners as a covered product is necessary and appropriate to carry out the purposes of EPCA. Based on that reevaluation, DOE has tentatively determined that, at this time, it is not necessary or appropriate to classify air cleaners as a covered product to carry out the purposes of EPCA. EPCA provides the Secretary discretion in classifying a type of consumer product as a covered product as the Secretary *may* classify if certain requirements are met. (See 42 U.S.C. 6292(b) (emphasis added)). DOE found in the July 2022 Determination that classifying air cleaners as a covered product was needed to set energy conservation standards for air cleaners and carry out EPCA’s purposes to conserve energy supplies and provide for improved energy efficiency of other consumer products. See 87 FR 42297, 42304. But, using the discretion provided by EPCA for classifying additional covered products, DOE has tentatively determined that there are other avenues to conserve energy supplies than classifying air cleaners as a covered product and establishing standards. Therefore, DOE has tentatively found that classifying air cleaners as a covered product is not necessary or appropriate to carry out the purposes of EPCA.

Additionally, if DOE proceeds with issuing a final withdrawal of the coverage determination for air cleaners, then DOE subsequently lacks the authority to prescribe test procedures and energy conservation standards for

air cleaners. (See 42 U.S.C. 6293(b); 42 U.S.C. 6295(o)(2)(A) and (o)(3)(B)). For this reason, DOE is also proposing to withdraw the applicable test procedures, certification requirements, and energy conservation standards for air cleaners. See 10 CFR 430, subpart B, appendix FF; 10 CFR 429.68; 10 CFR 430.32(ee).

DOE requests comment on all aspects of its proposal to withdraw coverage for air cleaners.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed action was not submitted to OIRA for review under E.O. 12866.

B. Review Under Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the

rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions).

DOE reviewed this proposed withdrawal of determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal does not establish test procedures or standards for air cleaners, and, if adopted, DOE would no longer have the authority to consider establishing or amending such measures. Therefore, DOE initially concludes that the impacts of the proposed withdrawal of determination would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed withdrawal of determination, which proposes that air cleaners do not meet the criteria for a covered product for which the Secretary may consider prescribing energy conservation standards pursuant to 42 U.S.C. 6295(o) and (p), imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory

authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed withdrawal of determination and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed withdrawal of determination. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed withdrawal of determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed withdrawal of determination would not have any impact on the

autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed withdrawal of determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed withdrawal of determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable

alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the

¹ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

process of evaluating the resulting report.²

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed withdrawal of determination and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed withdrawal of determination, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use

a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this notification of proposed determination no later than the date provided in the **DATES** section

at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to www.regulations.gov. If you do not want

² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed withdrawal of determination. DOE is particularly interested in receiving comments and views of interested parties concerning whether withdrawing the coverage determination of air cleaners as a

covered product is consistent with the purposes of EPCA.

DOE is also interested in receiving views concerning other relevant issues that participants believe would affect the tentative conclusions presented in this document.

After the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it may prepare a final withdrawal of the coverage determination for air cleaners.

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed withdrawal of determination; request for comments.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.
Jennifer Hartzell,
Alternate Federal Register Liaison Officer,
U.S. Department of Energy.

For the reasons set forth in the preamble, DOE is proposing to amend parts 429 and 430 of chapter II,

subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND INDUSTRIAL EQUIPMENT

- 1. The authority for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§ 429.68 [Removed and reserved]

- 2. Remove and reserve § 429.68.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

- 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.2 [Amended]

- 4. Amend § 430.2 by removing the definition of "Air cleaner".

§ 430.23 [Amended]

- 5. Amend § 430.23 by removing and reserving paragraph (hh).

Appendix FF to Subpart B of Part 430 [Removed]

- 6. Remove and reserve appendix FF to subpart B of part 430.

§ 430.32 [Amended]

- 7. Amend § 430.32 by removing paragraph (ee).

[FR Doc. 2025–08596 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[EERE–2025–BT–DET–0009]

RIN 1904–AF79

Energy Conservation Program: Proposed Withdrawal of Determination of Miscellaneous Refrigeration Products as a Covered Consumer Product

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed withdrawal of determination; request for comments.

SUMMARY: DOE is proposing to withdraw its prior determination that miscellaneous refrigeration products qualify as covered products under Part A of Title III of the Energy Policy and

Conservation Act, as amended (“EPCA”).

DATES:

Comments: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a meeting via a webinar on Thursday, May 29, 2025, from 1:00 p.m. to 4:00 p.m. See section III of this document, “Public Participation,” for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–DET–0009. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–DET–0009, by any of the following methods:

(1) *Email:*

MiscRefrigeration2025DET0009@ee.doe.gov. Include the docket number EERE–2025–BT–DET–0009 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121.

Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available,

such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-DET-0009. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section III of this document, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: *DOEGeneralCounsel@hq.doe.gov*.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email:

ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866 and 13563
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in the Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Webinar
 - D. Submission of Comments
 - E. Issues on Which DOE Seeks Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

Under EPCA, DOE may add consumer products to the list of covered products for which energy conservation standards can be established. (42 U.S.C. 6292(b)(1)) The coverage determination procedures require DOE to conclude

that classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this chapter, among other requirements. (*Id.* at 42 U.S.C. 6292(b)(1)(A)) Only after coverage is determined, DOE may then adopt standards and test procedures regulating such products, pursuant to the requirements set out in the statute. (See generally 42 U.S.C. 6293, 6295)

On November 8, 2011, DOE published in the **Federal Register** a notice of proposed determination (“NOPD”) that proposed to determine coverage of consumer refrigeration products without compressors. 76 FR 69147. On October 31, 2013, DOE published in the **Federal Register** a supplemental notice of proposed determination of coverage (“SNOPD”) in which it tentatively determined that miscellaneous refrigeration products (“MREFs”), which at the time included wine chillers, non-compressor refrigeration products, hybrid products (*i.e.*, refrigeration products that combine a wine chiller with a refrigerator and/or freezer), and consumer ice makers, would likely satisfy the provisions of 42 U.S.C. 6292(b)(1). 78 FR 65223 (“October 2013 SNOPD”). On April 1, 2015, DOE published a notice of intent to establish a MREF Working Group under the Appliance Standards and Rulemaking Federal Advisory Committee that would use the negotiated rulemaking process to discuss and, if possible, reach consensus recommendations on the scope of coverage, definitions, test procedures, and energy conservation standards for MREFs. 80 FR 17355. On March 4, 2016, DOE published a SNOPD proposing a scope of coverage and definitions for MREFs consistent with the recommendations of the MREF Working Group. See 81 FR 11454 (“March 2016 SNOPD”). After considering public comments, data, and information from interested parties submitted in response to the October 2013 SNOPD and the March 2016 SNOPD, DOE finalized the coverage determination for MREFs. 81 FR 46768 (July 18, 2016) (“July 2016 Determination”). As part of the July 2016 Determination, DOE adopted definitions, test procedures, and certification requirements for MREFs. *Id.* at 81 FR 46789–46805.

DOE has reevaluated whether including MREFs as a covered product is necessary and appropriate to carry out the purposes of EPCA. Based on that evaluation, DOE has tentatively determined that, at this time, it is not necessary or appropriate to classify MREFs as a covered product to carry out

the purposes of EPCA. EPCA provides the Secretary discretion in classifying a type of consumer product as a covered product because the Secretary *may* classify if certain requirements are met. (See 42 U.S.C. 6292(b) (emphasis added)). While DOE found in the July 2016 Determination that classifying MREFs as a covered product was needed to set energy conservation standards for MREFs and carry out EPCA's purposes to conserve energy supplies and provide for improved energy efficiency of other consumer products, DOE has reevaluated that determination. See 81 FR 46768, 46773. Using the discretion provided by EPCA for classifying additional covered products, DOE has tentatively determined that there are other avenues to conserve energy supplies than classifying MREFs as a covered product and establishing standards. Therefore, DOE has tentatively found that classifying MREFs as a covered product is not necessary or appropriate to carry out the purposes of EPCA.

Additionally, if DOE proceeds with issuing a final withdrawal of the coverage determination for MREFs, then DOE subsequently lacks the authority to prescribe test procedures and energy conservation standards for MREFs. (See 42 U.S.C. 6293(b); 42 U.S.C. 6295(o)(2)(A) and (o)(3)(B)). For this reason, DOE is also proposing to withdraw the applicable test procedures, certification requirements, and energy conservation standards for MREFs. See 10 CFR 430, subpart B, appendix A; 10 CFR 429.61; 10 CFR 430.32(aa).

DOE requests comment on all aspects of its proposal to withdraw coverage for MREFs.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and

assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

B. Review Under Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions).

DOE reviewed this proposed withdrawal of determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. If this proposal is adopted, DOE would no longer have the authority to consider establishing or amending test procedures or energy conservation standards for MREFs. Therefore, DOE initially concludes that the impacts of the proposed withdrawal of determination would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed withdrawal of determination, which proposes that MREFs do not meet the criteria for a covered product for which the Secretary may consider prescribing energy conservation standards pursuant to 42 U.S.C. 6295(o) and (p), imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include

categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed withdrawal of determination and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed withdrawal of determination. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988

specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed withdrawal of determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this proposed withdrawal of determination according to UMRA and its statement of policy and determined that the proposed

withdrawal of determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed withdrawal of determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed withdrawal of determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66

FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹

¹ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the

Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.²

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed withdrawal of determination and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 "Unleashing American Energy," E.O. 14192, "Unleashing Prosperity Through Deregulation," and Presidential Memorandum, "Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis." This proposed withdrawal of determination, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these

issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those

attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this notification of proposed determination no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information ("CBI")). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for

following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the

information and treat it according to its determination.

It is DOE policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed withdrawal of determination. DOE is particularly interested in receiving comments and views of interested parties concerning whether withdrawing the coverage determination of MREFs as a covered product is consistent with the purposes of EPCA.

DOE is also interested in receiving views concerning other relevant issues that participants believe would affect the tentative conclusions presented in this document.

After the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it may prepare a final withdrawal of the coverage determination for MREFs.

III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed withdrawal of determination; request for comments.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For

administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE is proposing to amend parts 429 and 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND INDUSTRIAL EQUIPMENT

- 1. The authority for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§ 429.61 [Removed]

- 2. Remove and reserve § 429.61.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

- 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

- 4. Amend § 430.2 by:

- a. Removing the definitions for "All-refrigerator," "Built-in compact cooler," "Built-in cooler," "Combination cooler refrigeration product," "Consumer refrigeration product," "Cooler," "Cooler-all-refrigerator," "Cooler-freezer," "Cooler-refrigerator," "Cooler-refrigerator-freezer," "Freestanding compact cooler," "Freestanding cooler," and "Miscellaneous refrigeration product."

- b. Revising the definitions for "Covered product," "Freezer," "Refrigerator," and "Refrigerator-freezer";

The revisions read as follows:

§ 430.2 Definitions.

* * * * *

Covered product means a consumer product—

(1) Of a type specified in section 322 of the Act; or

(2) That is an air cleaner, battery charger, ceiling fan, ceiling fan light kit,

dehumidifier, external power supply, medium base compact fluorescent lamp, portable air conditioner, or torchiere.

Freezer means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only and is capable of maintaining compartment temperatures of 0 °F (−17.8 °C) or below as determined according to the provisions in § 429.14(d)(2) of this chapter. It does not include any refrigerated cabinet that consists solely of an automatic ice maker and an ice storage bin arranged so that operation of the automatic icemaker fills the bin to its capacity. However, the term does not include:

(1) Any product that does not include a compressor and condenser unit as an integral part of the cabinet assembly.

(2) [Reserved]

Refrigerator means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only and is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according to § 429.14(d)(2) of this chapter. A refrigerator may include a compartment capable of maintaining compartment temperatures below 32 °F (0 °C), but does not provide a separate low temperature compartment capable of maintaining compartment temperatures below 8 °F (−13.3 °C) as determined according to § 429.14(d)(2) of this chapter. However, the term does not include:

(1) Any product that does not include a compressor and condenser unit as an integral part of the cabinet assembly; or
(2) A cooler.

Refrigerator-freezer means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only and consists of two or more compartments where at least one of the compartments is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according to § 429.14(d)(2) of this chapter, and at least one other compartment is capable of maintaining compartment temperatures of 8 °F (−13.3 °C) and may be adjusted by the user to a temperature of 0 °F (−17.8 °C) or below as determined according to § 429.14(d)(2) of this chapter. However, the term does not include:

(1) Any product that does not include a compressor and condenser unit as an integral part of the cabinet assembly.

(2) [Reserved]

* * * * *

■ 5. Appendix A to subpart B of part 430 is revised to read as follows.

Appendix A to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Refrigerators and Refrigerator-Freezers

Note: Prior to April 11, 2022, any representations of volume and energy use of refrigerators and refrigerator-freezers must be based on the results of testing pursuant to either this appendix or the procedures in appendix A as it appeared at 10 CFR part 430, subpart B, appendix A, in the 10 CFR parts 200 to 499 edition revised as of January 1, 2019. Any representations of volume and energy use must be in accordance with whichever version is selected. On or after April 11, 2022, any representations of volume and energy use must be based on the results of testing pursuant to this appendix.

For refrigerators and refrigerator-freezers, the rounding requirements specified in sections 4 and 5 of this appendix are not required for use until the compliance date of any amendment of energy conservation standards for these products published after October 12, 2021.

1. Referenced Materials

DOE incorporated by reference AHAM HRF-1-2019, *Energy and Internal Volume of Consumer Refrigeration Products* (“HRF-1-2019”), and AS/NZS 4474.1:2007, *Performance of Household Electrical Appliances—Refrigerating Appliances; Part 1: Energy Consumption and Performance, Second Edition* (“AS/NZS 4474.1:2007”), in their entirety in § 430.3; however, only enumerated provisions of these documents are applicable to this appendix. If there is any conflict between HRF-1-2019 and this appendix or between AS/NZS 4474.1:2007 and this appendix, follow the language of the test procedure in this appendix, disregarding the conflicting industry standard language.

(a) AHAM HRF-1-2019, (“HRF-1-2019”), *Energy and Internal Volume of Consumer Refrigeration Products*:

(i) Section 3—Definitions, as specified in section 3 of this appendix;

(ii) Section 4—Method for Determining the Refrigerated Volume of Consumer Refrigeration Products, as specified in section 4.1 of this appendix;

(iii) Section 5—Method for Determining the Energy Consumption of Consumer Refrigeration Products (excluding Table 5-1 and sections 5.5.6.5, 5.8.2.1.2, 5.8.2.1.3, 5.8.2.1.4, 5.8.2.1.5, and 5.8.2.1.6), as specified in section 5 of this appendix; and

(iv) Section 6—Method for Determining the Adjusted Volume of Consumer Refrigeration Products, as specified in section 4.2 of this appendix;

(b) AS/NZS 4474.1:2007, (“AS/NZS 4474.1:2007”), *Performance of Household Electrical Appliances—Refrigerating Appliances; Part 1: Energy Consumption and Performance, Second Edition*:

(i) Appendix M—Method of Interpolation When Two Controls are Adjusted, as specified in sections 5.2(b) and 5.3(e) of this appendix.

(ii) [Reserved]

If there is any conflict between HRF-1-2019 and this appendix or between AS/NZS 4474.1:2007 and this appendix, follow the language of the test procedure in this appendix, disregarding the conflicting industry standard language.

2. Scope

This appendix provides the test procedure for measuring the annual energy use in kilowatt-hours per year (kWh/yr), the total refrigerated volume in cubic feet (ft³), and the total adjusted volume in cubic feet (ft³) of refrigerators and refrigerator-freezers.

3. Definitions

Section 3, *Definitions*, of HRF-1-2019 applies to this test procedure. In case of conflicting terms between HRF-1-2019 and DOE's definitions in this appendix or in § 430.2, DOE's definitions take priority.

Through-the-door ice/water dispenser means a device incorporated within the cabinet, but outside the boundary of the refrigerated space, that delivers to the user on demand ice and may also deliver water from within the refrigerated space without opening an exterior door. This definition includes dispensers that are capable of dispensing ice and water or ice only.

4. Volume

Determine the refrigerated volume and adjusted volume for refrigerators and refrigerator-freezers in accordance with the following sections of HRF-1-2019, respectively:

4.1. Section 4, Method for Determining the Refrigerated Volume of Consumer Refrigeration Products; and

4.2. Section 6, Method for Determining the Adjusted Volume of Consumer Refrigeration Products.

5. Energy Consumption

Determine the annual energy use (“AEU”) in kilowatt-hours per year (kWh/yr), for refrigerators and refrigerator-freezers in accordance with section 5, *Method for Determining the Energy Consumption of Consumer Refrigeration Products*, of HRF-1-2019, except as follows.

5.1. Test Setup and Test Conditions

(a) In section 5.3.1 of HRF-1-2019, the top of the unit shall be determined by the refrigerated cabinet height, excluding any accessories or protruding components on the top of the unit.

(b) The ambient temperature and vertical ambient temperature gradient requirements specified in section 5.3.1 of HRF-1-2019 shall be maintained during both the stabilization period and the test period.

(c) The power supply requirements as specified in section 5.5.1 of HRF-1-2019 shall be maintained based on measurement intervals not to exceed one minute.

(d) The ice storage compartment temperature requirement as specified in section 5.5.6.5 in HRF-1-2019 is not required.

(e) For cases in which setup is not clearly defined by this test procedure, manufacturers must submit a petition for a waiver (See section 6 of this appendix).

(f) If the interior arrangements of the unit under test do not conform with those shown

in Figures 5–1 or 5–2 of HRF–1–2019, as appropriate, the unit must be tested by relocating the temperature sensors from the locations specified in the figures to avoid interference with hardware or components within the unit, in which case the specific locations used for the temperature sensors shall be noted in the test data records maintained by the manufacturer in accordance with 10 CFR 429.71, and the certification report shall indicate that non-standard sensor locations were used. If any temperature sensor is relocated by any amount from the location prescribed in

Figure 5–1 or 5–2 of HRF–1–2019 in order to maintain a minimum 1-inch air space from adjustable shelves or other components that could be relocated by the consumer, except in cases in which the Figures prescribe a temperature sensor location within 1 inch of a shelf or similar feature (*e.g.*, sensor T3 in Figure 5–1), this constitutes a relocation of temperature sensors that must be recorded in the test data and reported in the certification report as described in this paragraph.

5.2. Test Conduct

(a) Standard Approach

(i) For the purposes of comparing compartment temperatures with standardized temperatures, as described in section 5.6 of HRF–1–2019, the freezer compartment temperature shall be as specified in section 5.8.1.2.5 of HRF–1–2019, the fresh food compartment temperature shall be as specified in section 5.8.1.2.4 of HRF–1–2019, and the cooler compartment temperature shall be as specified in section 5.8.1.2.6 of HRF–1–2019.

(ii) In place of Table 5–1 in HRF–1–2019, refer to Table 1 of this section.

TABLE 1—TEMPERATURE SETTINGS: GENERAL CHART FOR ALL PRODUCTS

First test		Second test		Energy calculation based on:
Setting	Results	Setting	Results	
Mid for all Compartments.	All compartments below standard reference temperature.	Warmest for all Compartments.	All compartments below standard reference temperature. One or more compartments above standard reference temperature.	Second Test Only.
	One or more compartments above standard reference temperature.	Coldest for all Compartments.	All compartments below standard reference temperature.	First and Second Test.
			One or more compartments above standard reference temperature.	First and Second Test.
				Model may not be certified as compliant with energy conservation standards based on testing of this unit. Confirm that unit meets product definition. If so, see section 6 of this appendix.

(b) Three-Point Interpolation Method (Optional Test for Models with Two Compartments and User-Operable Controls). As specified in section 5.6.3(6) of HRF–1–2019, and as an optional alternative to section 5.2(a) of this appendix, perform three tests such that the set of tests meets the “minimum requirements for interpolation” of AS/NZS 4474.1:2007 appendix M, section M3, paragraphs (a) through (c) and as illustrated in Figure M1. The target temperatures t_{xA} and t_{xB} defined in section

M4(a)(i) of AS/NZS 4474.1:2007 shall be the standardized temperatures defined in section 5.6 of HRF–1–2019.

5.3. Test Cycle Energy Calculations

Section 5.8.2, *Energy Consumption*, of HRF–1–2019 applies to this test procedure, except as follows:

(a)(i) For refrigerators and refrigerator-freezers: To demonstrate compliance with the energy conservation standards at 10 CFR 430.32(a) applicable to products manufactured on or after September 15, 2014,

IET, expressed in kilowatt-hours per cycle, equals 0.23 for a product with one or more automatic icemakers and otherwise equals 0 (zero).

(c) In place of sections 5.8.2.1.3 and 5.8.2.1.4 of HRF–1–2019, use the calculations provided in this section. For units with variable defrost control, the test cycle energy shall be calculated as set forth in section 5.3(a) of this appendix with the following addition:

CT shall be calculated equivalent to:

$$CT = \frac{CT_L \times CT_M}{F \times (CT_M - CT_L) + CT_L}$$

Where:

CT_L = the least or shortest compressor run time between defrosts used in the variable defrost control algorithm (greater than or equal to 6 but less than or equal to 12 hours), or the shortest compressor run time between defrosts observed for the test (if it is shorter than the shortest run time used in the control algorithm and is greater than 6 hours), or 6 hours (if the shortest observed run time

is less than 6 hours), in hours rounded to the nearest tenth of an hour;

CT_M = the maximum compressor run time between defrosts in hours rounded to the nearest tenth of an hour (greater than CT_L but not more than 96 hours);
For variable defrost models with no values of CT_L and CT_M in the algorithm, the default values of 6 and 96 shall be used, respectively.

F = ratio of per day energy consumption in excess of the least energy and the

maximum difference in per-day energy consumption and is equal to 0.20.

(d) In place of section 5.8.2.1.5 of HRF–1–2019, use the calculations provided in this section. For multiple-compressor products with automatic defrost, the two-part test method in section 5.7.2.1 of HRF–1–2019 shall be used, and the test cycle energy shall be calculated as:

$$ET = \left(\frac{1440 \times K \times EP1}{T1} \right) + \sum_{i=1}^D \left[\left(EP2_i - \left(EP1 \times \frac{T2_i}{T1} \right) \right) \times \left(\frac{12}{CT_i} \right) \times K \right]$$

Where:

ET, 1440, 12, and K are defined in section 5.3(a) of this appendix;
EP1, and T1 are defined in section 5.3(a) of this appendix;
i = a subscript variable that can equal 1, 2, or more that identifies each individual

compressor system that has automatic defrost;
D = the total number of compressor systems with automatic defrost;
EP2_i = energy expended in kilowatt-hours during the second part of the test for compressor system i;

T2_i = length of time in minutes of the second part of the test for compressor system i;
CT_i = compressor run time between defrosts of compressor system i, rounded to the nearest tenth of an hour, for long-time automatic defrost control equal to a fixed time in hours, and for variable defrost control equal to:

$$CT_i = \frac{CT_{L,i} \times CT_{M,i}}{F \times (CT_{M,i} - CT_{L,i}) + CT_{L,i}}$$

Where:

CT_{L,i} = for compressor system i, the shortest cumulative compressor-on time between defrost heater-on events used in the variable defrost control algorithm (CT_L for the compressor system with the longest compressor run time between defrosts must be greater than or equal to 6 but less than or equal to 12 hours), in hours rounded to the nearest tenth of an hour;

CT_{M,i} = for compressor system i, the maximum compressor-on time between defrost heater-on events used in the variable defrost control algorithm (greater than CT_{L,i} but not more than 96 hours), in hours rounded to the nearest tenth of an hour;
For defrost cycle types with no values of CT_L and CT_M in the algorithm, the default values of 6 and 96 shall be used, respectively.
F = ratio of per day energy consumption in excess of the least energy and the

maximum difference in per-day energy consumption and is equal to 0.20.

(e) In place of section 5.8.2.1.6 of HRF-1-2019, use the calculations provided in this section. For units with long-time automatic defrost control and variable defrost control with multiple defrost cycle types, the two-part test method in section 5.7.2.1 of HRF-1-2019 shall be used, and the test cycle energy shall be calculated as:

$$ET = \left(\frac{1440 \times K \times EP1}{T1} \right) + \sum_{i=1}^D \left[\left(EP2_i - \left(EP1 \times \frac{T2_i}{T1} \right) \right) \times \left(\frac{12}{CT_i} \right) \times K \right]$$

Where:

ET, 1440, 12, and K are defined in section 5.3(a) of this appendix;
EP1, and T1 are defined in section 5.3(a) of this appendix;
i = a subscript variable that can equal 1, 2, or more that identifies the distinct defrost cycle types applicable for the product;
D = the total number of defrost cycle types;

EP2_i = energy expended in kilowatt-hours during the second part of the test for defrost cycle type i;
T2_i = length of time in minutes of the second part of the test for defrost cycle type i;
CT_i = defrost timer run time or compressor run time between instances of defrost cycle type i, rounded to the nearest tenth of an hour;
12 = factor to adjust for a 50-percent run time of the compressor in hours per day.

(i) For long-time automatic defrost control, CT_i shall be equal to a fixed time in hours rounded to the nearest tenth of an hour. For cases in which there are more than one fixed CT value for a given defrost cycle type, an average fixed CT value shall be selected for this cycle type.
(ii) For variable defrost control, CT_i shall be calculated equivalent to:

$$CT_i = \frac{CT_{L,i} \times CT_{M,i}}{F \times (CT_{M,i} - CT_{L,i}) + CT_{L,i}}$$

Where:

CT_{L,i} = the least or shortest compressor run time between instances of the defrost cycle type i in hours rounded to the nearest tenth of an hour (CT_L for the defrost cycle type with the longest

compressor run time between defrosts must be greater than or equal to 6 but less than or equal to 12 hours);
CT_{M,i} = the maximum compressor run time between instances of defrost cycle type i in hours rounded to the nearest tenth

of an hour (greater than CT_{L,i} but not more than 96 hours);
For cases in which there are more than one CT_M and/or CT_L value for a given defrost cycle type, an average of the CT_M and CT_L values shall be selected for this defrost cycle type. For defrost cycle

types with no values of CT_L and CT_M in the algorithm, the default values of 6 and 96 shall be used, respectively.

F = ratio of per day energy consumption in excess of the least energy and the maximum difference in per-day energy consumption and is equal to 0.20.

(f) If the three-point interpolation method of section 5.2(b) of this appendix is used for setting temperature controls, the average per-cycle energy consumption shall be defined as follows:

$$E = E_x + IET$$

Where:

E is defined in 5.9.1.1 of HRF-1-2019;

IET is defined in 5.9.2.1 of HRF-1-2019; and

E_x is defined and calculated as described in appendix M, section M4(a) of AS/NZS 4474.1:2007. The target temperatures t_{xA} and t_{xB} defined in section M4(a)(i) of AS/NZS 4474.1:2007 shall be the standardized temperatures defined in section 5.6 of HRF-1-2019.

§ 430.32 [Amended]

■ 6. Remove and reserve § 430.32(aa).

[FR Doc. 2025-08584 Filed 5-12-25; 9:30 am]

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DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[EERE-2025-BT-DET-0007]

RIN 1904-AF77

Energy Conservation Program: Proposed Withdrawal of Determination of Compressors as a Covered Equipment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed withdrawal of determination; request for comments.

SUMMARY: DOE is proposing to withdraw its prior determination that compressors qualify as covered equipment under Part A-1 of Title III of the Energy Policy and Conservation Act, as amended (“EPCA”).

DATES:

Comments: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a meeting via a webinar on Thursday, May 29, 2025, from 1:00 p.m. to 4:00 p.m. See section III of this document, “Public Participation,” for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at

www.regulations.gov under docket number EERE-2025-BT-DET-0007. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2025-BT-DET-0007, by any of the following methods:

(1) Email:

Compressors2025DET0007@ee.doe.gov. Include the docket number EERE-2025-BT-DET-0007 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) **Postal Mail:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) **Hand Delivery/Courier:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed withdrawal of determination, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-DET-0007. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section III of this document, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of

Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in the Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Webinar
 - D. Submission of Comments
 - E. Issues on Which DOE Seeks Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

Under EPCA, DOE may add a type of industrial equipment to the list of covered equipment for which energy conservation standards can be established. (42 U.S.C. 6311(2)(b)(1) and 6312(b)) The coverage determination procedures require DOE to determine that classifying industrial equipment of such type as covered equipment is necessary to carry out the purposes of this part. (42 U.S.C. 6312(b)) After coverage is determined, DOE may then adopt standards and test procedures regulating such equipment, pursuant to the requirements set out in the statute. (See generally 42 U.S.C. 6314, 6316(a), 6295(o))

On December 31, 2012, DOE published in the **Federal Register** a notice of proposed determination (“NOPD”) that proposed a coverage of compressors. 77 FR 76972 (“December

2012 NOPR”). After considering public comments, DOE finalized the coverage determination for compressors. 81 FR 79991 (Nov. 15, 2016) (“November 2016 Determination”). As part of the November 2016 Determination, DOE adopted a definition for compressors. 81 FR 79991, 79998.

DOE has reevaluated whether including compressors as a covered equipment is necessary to carry out the purpose of Part A–1 of EPCA. Based on that evaluation, DOE has tentatively determined that it is unnecessary to include compressors as covered equipment. EPCA provides the Secretary discretion in including a type of industrial equipment as covered equipment because the Secretary *may* classify equipment if certain requirements are met. (See 42 U.S.C. 6312(b) (emphasis added))

The proposed withdrawal is consistent with a policy to classify industrial equipment as covered equipment only if energy conservation standards will significantly increase the energy resources of the nation, without compromising the performance of industrial products. DOE has tentatively determined that the inclusion of compressors does not meet that standard. Additionally, the proposed withdrawal is consistent with the Secretary’s position that regulatory burdens should be reduced wherever possible, consistent with DOE’s statutory obligations.

DOE is seeking comment on all aspects of this proposal, including the November 2016 Determination’s consistency with DOE’s statutory authority and the constitution, its costs and benefits, and its impact on small businesses and innovation.

If DOE proceeds with issuing a final withdrawal of the coverage determination for compressors, then DOE subsequently lacks the authority to prescribe test procedures and energy conservation standards for compressors. (See 42 U.S.C. 6314(b), 6295(o)(2)(A), (o)(3)(B)) For this reason, DOE is also proposing to withdraw the applicable test procedures, certification requirements, and energy conservation standards for compressors. See 10 CFR 429.63, 431.344, 431.345.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its

costs; (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed action was not submitted to OIRA for review under E.O. 12866.

B. Review Under Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (“SBREFA”) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions).

DOE reviewed this proposed withdrawal of determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. If this proposal is adopted, DOE would no longer have the authority to consider establishing or amending test procedures. Therefore, DOE initially concludes that the impacts of the proposed withdrawal of determination would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed withdrawal of determination, which proposes that compressors do not meet the criteria for a covered equipment for which the Secretary may consider prescribing energy conservation standards pursuant to 42 U.S.C. 6295(o) and (p), imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed withdrawal of determination and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for

the products that are the subject of this proposed withdrawal of determination. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed withdrawal of determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that

estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed withdrawal of determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review

most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. DOE has reviewed this proposed withdrawal of determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed withdrawal of determination is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer

reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are "influential scientific information," which the Bulletin defines as "scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions." 70 FR 2664, 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.²

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed withdrawal of determination and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 "Unleashing American Energy," E.O. 14192, "Unleashing Prosperity Through Deregulation," and Presidential Memorandum, "Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis." This proposed withdrawal of determination, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

¹ The 2007 "Energy Conservation Standards Rulemaking Peer Review Report" is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306) A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking,

allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this notification of proposed determination no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (“CBI”). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption

and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters’ names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed withdrawal of determination. DOE is particularly interested in receiving comments and views of interested parties concerning whether withdrawing the coverage determination of compressors as a covered equipment is consistent with the purpose of Part A–1 of EPCA.

DOE is also interested in receiving views concerning other relevant issues that participants believe would affect the tentative conclusions presented in this document.

After the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it may prepare a final withdrawal of the coverage determination for compressors.

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed withdrawal of determination; request for comment.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by Reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Incorporation by Reference, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register Liaison Officer** has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE is proposing to amend parts 429 and 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§ 429.63 [Removed and Reserved]

■ 2. Remove and reserve § 429.63.

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 3. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

Subpart T [Removed and Reserved]

■ 4. Remove and reserve subpart T, consisting of §§ 431.341 through 431.346.

[FR Doc. 2025–08582 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2025–BT–STD–0021]

RIN 1904–AF91

Energy Conservation Program: Energy Conservation Standards for Faucets

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemakings; request for comments.

SUMMARY: The Department of Energy (DOE) is proposing to rescind the amended water use standards for faucets. If finalized, this will reset existing water use requirements for faucets to the statutory standard.

DATES:

Comments: Comments must be received within 60 days of May 16, 2025.

Meeting: DOE will hold a meeting via a webinar on Thursday, May 29, 2025, from 1 p.m. to 4 p.m. See section III of this document, “Public Participation,” for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0021. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0021, by any of the following methods:

(1) *Email:* Faucets2025STD0021@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0021 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW,

Washington, DC 20585–0121.

Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Docket: The docket for this rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0021. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section III of this document, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act

D. Review Under the National

Environmental Policy Act of 1969

E. Review Under Executive Order 13132

F. Review Under Executive Order 12988

G. Review Under the Unfunded Mandates Reform Act of 1995

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

I. Review Under Executive Order 12630

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

K. Review Under Executive Order 13211

L. Review Under the Information Quality Bulletin for Peer Review

M. Review Under Additional Executive Orders and Presidential Memoranda

III. Public Participation

A. Participation in the Webinar

B. Procedure for Submitting Prepared General Statements for Distribution

C. Conduct of the Webinar

D. Submission of Comments

IV. Approval of the Office of the Secretary

I. General Discussion

The U.S. Department of Energy is proposing to rescind the maximum water use requirements for faucets, codified in title 10 of the Code of Federal Regulations (“CFR”) 430.32(o), and return to the Congressionally established maximum water use. DOE proposes to rescind the regulatory water use standards in their entirety and seeks comment on all aspects of this proposal. The rescission will return the water use requirements for the five enumerated faucet types to the standards established in 42 U.S.C. 6295(j)(2).

Title III, Part B of the Energy Policy and Conservation Act (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for “Consumer Products Other Than Automobiles.” Faucets are included in the list of “covered products” for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(16))

Through EPCA, Congress established water conservation standards for faucets, which set the maximum water use allowed as 2.5 gallons per minute for lavatory faucets, lavatory replacement aerators, kitchen faucets, kitchen replacement aerators, or 0.25 gallons per cycle for metering faucets when measured at a flowing water pressure of 80 pounds per square inch. (42 U.S.C. 6295(j)(2)) These standards, as prescribed by EPCA, originate in the American Society of Mechanical Engineers/American National Standards Institute (“ASME/ANSI”) Standard A112.18.1M–1989. 62 FR 7834, 7835 (Feb. 20, 1997). EPCA further provides that if the requirements of ASME/ANSI Standard A112.18.1M–1989 are amended to improve the efficiency of water use, the Secretary shall publish a

final rule establishing an amended uniform national standard *unless* the Secretary determines that adoption of such a standard at the level specified is not: (i) technologically feasible and economically justified under subsection (o) of this section; (ii) consistent with the maintenance of public health and safety; or (iii) consistent with the purposes of this Act. (42 U.S.C. 6295(j)(3)(A)) Finally, EPCA offers a pathway for the Secretary to adopt a uniform national standard for faucets that are more stringent than amended ASME/ANSI standards if it “(I) would result in additional conservation of energy or water; (II) would be technologically feasible and economically justified under subsection (o) of this section; and (III) would be consistent with the maintenance of public health and safety.” (42 U.S.C. 6295(j)(3)(B)(i))

DOE codified the maximum water use allowed for this covered product by establishing 10 CFR 430.32(o) through a final rule in 1998. Instead of adopting the values from the statute, which paralleled ASME/ANS Standard A112.18.1M–1989, DOE incorporated the water use thresholds from the recently amended ASME/ANS Standard A112.18.1M–1996 into its regulation. See 63 FR 13308, 13309 (March 18, 1998).

DOE is now proposing to rescind the maximum water use allowances at 10 CFR 430.32(o) that adopted ASME/ANS Standard A112.18.1M–1996. As mentioned previously, EPCA provided DOE with the authority to adopt amended standards for water use if the ASME/ANSI Standard A112.18.1M–1989 was amended and directed the agency to adopt a uniform national standard meeting the amended levels *unless* the Secretary determined that such standards was not technologically feasible and economically justified; consistent with the maintenance of public health and safety; or (iii) consistent with the purposes of EPCA. (42 U.S.C. 6295(j)(3)(A)(i–iii))

Upon reevaluation, DOE has tentatively determined that the maximum water use values from ASME/ANSI Standard A112.18.1M–1996 were not economically justified, and likely should not have been adopted in regulation, and should now be rescinded. If this proposal is finalized, regulated entities should instead rely on the statutory maximum water use allowances at 42 U.S.C. 6295(j)(2).

DOE seeks comment on all aspects of DOE’s statutory authority as relevant to the water use regulations of faucets and the proposal to rescind the standards at 10 CFR 430.32(o).

Even if DOE’s prior decision that the ASME/ANSI Standard A112.18.1M–1996 maximum water use standards were economically justified based on the Department’s adoption of those maximums in regulation, DOE is now questioning whether this activity resulted in an unconstitutional delegation of legislative power to a private entity. In general, the Supreme Court has dismissed the notation that Congress could delegate its legislative authority to private groups “to empower them to enact the laws they deem to be wise and beneficial for the rehabilitation and expansion of their trade or industries[.]. . . Such a delegation of legislative power is unknown to our law, and is utterly inconsistent with the constitutional prerogatives and duties of Congress.” *A. L. A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 537 (1935). More recently, courts have noted that “[e]ven an intelligible principle cannot rescue a statute empowering private parties to wield regulatory authority.” *Ass’n of Am. R.R. v. United States DOT*, 721 F.3d 666, 671 (D.C. Cir. 2013).

DOE additionally seeks comment on EPCA’s direction and DOE’s activity per 42 U.S.C. 6295(j)(3)(A). These proposed rescissions are not designed to achieve a maximum reduction in energy efficiency because the Secretary has tentatively determined that the current regulations are not economically justified, and that they are inconsistent with a policy of maximally reducing regulatory burdens. See 42 U.S.C. 6295(p)(1). These are the same reasons that DOE is considering the change of position that is contemplated by this rule. DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated

entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposed rule proposes to eliminate standards at 10 CFR 430.32(o). Therefore, DOE initially concludes that the impacts of the proposed rescission of those standards would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rule imposes no new information or record-keeping requirements. Accordingly, the OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part

1021). DOE's regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by

section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA") requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this proposed rescission according to UMRA and its statement of policy and determined that

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit

to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹

¹ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.²

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in

² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be

needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

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Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information

believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and request for comments.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE proposes to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.32 [Amended]

■ 2. Amend § 430.32 by removing and reserving paragraph (o).

[FR Doc. 2025–08575 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY**10 CFR Part 430**

[EERE–2025–BT–STD–0023]

RIN 1904–AF93

Rescinding the Amended Water Use Standards for Residential Dishwashers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE or the Department).

ACTION: Proposed rule; request for comments.

SUMMARY: DOE is proposing to rescind the amended water use standards for residential dishwashers. This will return the water use requirement for a standard size dishwasher to the statutory standard of 6.5 gallons per cycle and for a compact size dishwasher to the statutory standard of 4.5 gallons per cycle.

DATES: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a webinar on Thursday, May 29, 2025, from 1 to 4 p.m. See section III, “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0023. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0023, by any of the following methods:

(1) *Email:* Dishwashers2025STD0023@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0023 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact

disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0023. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section, “Public Participation,” for further information on how to submit comments through www.regulations.gov. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act

- D. Review Under the National Environmental Policy Act of 1969
- E. Review Under Executive Order 13132
- F. Review Under Executive Order 12988
- G. Review Under the Unfunded Mandates Reform Act
- H. Review Under the Treasury and General Government Appropriations Act, 1999
- I. Review Under Executive Order 12630
- J. Review Under the Treasury and General Government Appropriations Act, 2001
- K. Review Under Executive Order 13211
- L. Review Under the Information Quality Bulletin for Peer Review
- M. Review Under Additional Executive Orders and Presidential Memoranda
- N. Incorporation by Reference
- III. Public Participation
 - A. Attendance at the Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind the regulatory water use requirements for residential dishwashers, codified in 10 CFR 430.32(f). For residential dishwashers “manufactured on or after January 1, 2010,” Congress has set the maximum water use for a standard size dishwasher at 6.5 gallons per cycle and for a compact size dishwasher at 4.5 gallons per cycle. 42 U.S.C. 6295(g)(10). DOE, by regulation, has set more stringent requirements. For “dishwashers manufactured on or after May 30, 2013, standard size dishwashers must not exceed 5.0 gallons per cycle.” 10 CFR 430.32(f)(1)(i). “Compact size dishwashers shall not exceed . . . 3.5 gallons per cycle.” 10 CFR 430.32(f)(1)(ii). In the future, residential dishwashers face more stringent requirements. “All dishwashers manufactured on or after April 23, 2027” must not exceed 3.3 gallons per cycle and 3.1 gallons per cycle for standard and compact models respectively. 10 CFR 430.32(f)(2).

DOE proposes to rescind these regulatory water use standards in their entirety and seeks comment on all aspects of that proposal. The rescission will return the water use requirements to the standard in section 6295(g)(10), which is at 6.5 gallons per cycle for standard dishwashers and 4.5 gallons per cycle for compact dishwashers. DOE is proposing to rescind these regulations for multiple independent reasons, including but not limited to the following.

First, DOE has reconsidered the statutory authority for its water use regulations of dishwashers and concluded that the authority likely does not permit the regulations. As one court

has suggested, “EPCA does not appear to contemplate overlap between the products subject to ‘energy’ regulation and those subject to ‘water’ regulation.” *Louisiana v. United States DOE*, 90 F.4th 461, 470 (5th Cir. 2024).

Dishwashers use energy, so DOE can seemingly regulate the amount of energy used by dishwashers, but not water use.

EPCA defines “energy conservation standard” as “a performance standard which prescribes a minimum level of energy efficiency or a maximum quantity of energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use.” 42 U.S.C. 6291(6)(A). EPCA further defines “water use” as “the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use.” 42 U.S.C. 6291(31)(A); *see also* 42 U.S.C. 6293(b)(3) (dividing energy use and water use for test procedures); 42 U.S.C. 6295(o) (similar). A dishwasher, obviously, is not a showerhead, faucet, water closet, or urinal. Therefore, EPCA does not seem to contemplate DOE regulating the water use of dishwashers.

This is not surprising. Under the initial EPCA, DOE did not regulate water use. Water use was added later, specifically limited to showerheads, faucets, water closets, and urinals. And, even though Congress itself has set the water use for dishwashers in section 6295(g)(10), the plain text of EPCA does not seem to permit DOE to change those standards. Therefore, DOE seeks comment on all aspects of DOE’s statutory authority as relevant to the water use regulations of dishwashers.

Second, the Secretary has tentatively found that the water use regulations are not economically justified. Among other factors, the regulatory water use restrictions appear to lessen the utility of dishwashers by lengthening the time it takes to wash dishes. *See generally* 85 FR 68727. And the regulations are not consistent with the need for national water conservation. Consumers are best situated to decide whether a given product is economically justified, as that is precisely what the free market does best.

Third, the Secretary’s is proposing a new policy to reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the secretary proposes eliminating that requirement. DOE’s new policy would support energy and water abundance, allowing Americans to produce and consumer as much energy and water as they desire.

DOE has tentatively determined that there is no reliance interest in an unlawful regulation. *See Dep’t of Homeland Sec. v. Regents of the Univ.*

of California, 591 U.S. 1, 32 (2020).

These proposed rule rescissions are not designed to achieve a maximum reduction in water efficiency or use because the Secretary has tentatively determined that the current regulations are unlawful, that they are not economically justified, and that they are inconsistent with the policy of maximally reducing regulatory burdens. *See* 42 U.S.C. 6295(p)(1). These are the same reasons that DOE is considering the change of position that is contemplated by this rule. DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order (E.O.) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

B. Review Under the Regulatory Flexibility Act

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

As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates standards. Therefore, DOE initially concludes that the impacts of the proposed rule rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rule rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. *See* 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that

would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is

unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule rescission meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their

expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that the proposed rescission will not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule rescission and has tentatively determined that it is consistent with the

policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule rescission, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

N. Incorporation by Reference

AHAM DW-1-2020 appears in the amendatory text of this document and has already been approved for the locations in which it appears. No changes are proposed to the IBR material.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will

be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

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Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rule; request for comments.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business

information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of the Department of Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.
Jennifer Hartzell,
Alternate Federal Register Liaison Officer,
U.S. Department of Energy.

For the reasons set forth in the preamble, DOE is proposing to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Amend § 430.32 by revising paragraph (f) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(f) *Dishwashers.* (1) All dishwashers manufactured on or after May 30, 2013, shall meet the following standard—

(i) Standard size dishwashers shall not exceed 307 kwh/year. Standard size dishwashers have a capacity equal to or greater than eight place settings plus six serving pieces as specified in AHAM DW–1–2020 (incorporated by reference, see § 430.3) using the test load specified in section 2.3 of appendix C1 or section 2.4 of appendix C2 to subpart B of this part, as applicable.

(ii) Compact size dishwashers shall not exceed 222 kwh/year. Compact size dishwashers have a capacity less than eight place settings plus six serving pieces as specified in AHAM DW–1–

2020 (incorporated by reference, see § 430.3) using the test load specified in section 2.3 of appendix C1 or section 2.4 of appendix C2 to subpart B of this part, as applicable.

(2) All dishwashers manufactured on or after April 23, 2027, shall not exceed the following standard—

Product class	Estimated annual energy use (kWh/year)
(i) Standard-size ¹ (≥8 place settings plus 6 serving pieces) ²	223
(ii) Compact-size (<8 place settings plus 6 serving pieces) ²	174

¹ The energy conservation standards in this table do not apply to standard-size dishwashers with a cycle time for the normal cycle of 60 minutes or less.

² Place settings are as specified in AHAM DW-1-2020 (incorporated by reference, see § 430.3) and the test load is as specified in section 2.4 of appendix C2 to subpart B of this part.

(3) The provisions of paragraph (f)(2) of this section are separate and severable from one another. Should a court of competent jurisdiction hold any provision(s) of this section to be stayed or invalid, such action shall not affect any other provision of this section.

* * * * *

[FR Doc. 2025-08591 Filed 5-12-25; 9:30 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE-2025-BT-STD-0013]

RIN 1904-AF83

Energy Conservation Program:
Rescinding in Part the Amended
Energy Conservation Standards for
Dehumidifiers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: DOE is proposing to rescind the amended energy conservation standards for all dehumidifiers (excluding whole-home dehumidifiers) hereinafter (“dehumidifiers” or “non-whole-home dehumidifiers”), which constitute a distinct class of dehumidifier for which energy conservation standards are not statutorily prescribed. This will return the energy conservation standards for dehumidifiers manufactured on or after October 1, 2012, to 1.35 liters/kWh for dehumidifiers with a capacity of up to 35.00 pints/day; 1.50 liters/kWh for dehumidifiers with a capacity of 35.01–45.00 pints/day; 1.60 liters/kWh for dehumidifiers with a capacity of 45.01–

54.00 pints/day; 1.70 liters/kWh for dehumidifiers with a capacity of 54.01–75.00 pints/day; and 2.5 liters/kWh for dehumidifiers with a capacity of greater than 75.00 pints/day.

DATES: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a webinar on Thursday, May 29, 2025, from 1 p.m. to 4 p.m. See section III, “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE-2025-BT-STD-0013. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2025-BT-STD-0013, by any of the following methods:

(1) **Email:**
Dehumidifiers2025STD0013@ee.doe.gov. Include the docket number EERE-2025-BT-STD-0013 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) **Postal Mail:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) **Hand Delivery/Courier:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in

the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0013. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the proposed rulemaking. See section III, “Public Participation,” for further information on how to submit comments through www.regulations.gov. In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at www.regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. General Discussion

II. Procedural Issues and Regulatory Review

 A. Review Under Executive Orders 12866

 B. Review Under the Regulatory Flexibility Act

 C. Review Under the Paperwork Reduction Act

 D. Review Under the National Environmental Policy Act of 1969

 E. Review Under Executive Order 13132

 F. Review Under Executive Order 12988

 G. Review Under the Unfunded Mandates Reform Act

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

 I. Review Under Executive Order 12630

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

 K. Review Under Executive Order 13211

 L. Review Under the Information Quality Bulletin for Peer Review

 M. Review Under Additional Executive Orders and Presidential Memoranda

III. Public Participation

 A. Participation in the Webinar

 B. Procedure for Submitting Prepared General Statements for Distribution

 C. Conduct of the Webinar

 D. Submission of Comments

IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind, in part, the amended energy conservation standards for dehumidifiers, codified in

10 CFR 430.32(v). For dehumidifiers “manufactured on or after October 1, 2012,” Congress has set the energy conservation standards for dehumidifiers at 1.35 liters/kWh for dehumidifiers with a capacity of up to 35.00 pints/day; 1.50 liters/kWh for dehumidifiers with a capacity of 35.01–45.00 pints/day; 1.60 liters/kWh for dehumidifiers with a capacity of 45.01–54.00 pints/day; 1.70 liters/kWh for dehumidifiers with a capacity of 54.01–75.00 pints/day; and 2.5 liters/kWh for dehumidifiers with a capacity of greater than 75.00 pints/day. DOE, by regulation, has set more stringent requirements. For “Dehumidifiers manufactured on or after June 13, 2019,” DOE has set the conservation standards at 1.30 liters/kWh for portable dehumidifier products with a capacity of 25.00 pints/day or less; 1.60 liters/kWh for portable dehumidifier products with a capacity of 25.01–50.00 pints/day; and 2.80 liters/kWh for portable dehumidifier products with a capacity of 50.01 or more pints/day.

DOE proposes to rescind the regulatory energy conservation standards for dehumidifier products manufactured on or after June 13, 2019, and seeks comment on all aspects of that proposal. The rescission will return the energy conservation standards to those in 42 U.S.C. 6295(cc)(2). DOE is proposing to rescind these regulations for multiple independent reasons, including but not limited to the following.

The Secretary has tentatively determined that the current regulatory standard is not economically justifiable. Additionally, the Secretary is proposing a new policy to reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the Secretary proposes eliminating that requirement. The standard for whole-home dehumidifiers is required by 42 U.S.C. 6295(q), which provides for different levels of energy use for products that are within a class but have a different capacity or other performance-related feature justifying a deviation from the standard applicable to other products in the class. Here, for non-whole-home dehumidifiers, the regulatory standard is not required. DOE’s new policy would support energy abundance, allowing Americans to produce and consume as much energy as they desire.

The Secretary has also tentatively determined that the anti-backsliding provision in section 6295(o)(1) does not prohibit a reconsideration of the regulatory standard. That section only applies to “covered products.” See 42 U.S.C. 6295(o)(1). Covered products are

explicitly defined in the statute as “a consumer product of a type specified in section 6292 of this title.” 42 U.S.C. 6291(2). Section 6292 then lists 19 specific products and a catchall provision for any product the Secretary determines coverage is necessary. Dehumidifiers are not among the first 19 products explicitly listed in that definition. And the Secretary has not determined that coverage is necessary. Therefore, section 6295(o)(1) does not apply.

These proposed rescissions are not designed to achieve a maximum reduction in energy efficiency or use because the Secretary has tentatively determined that the portions of the current regulations that deviate from section 6295 are unlawful, that they are not economically justified, and that they are inconsistent with the policy of maximally reducing regulatory burdens. See 42 U.S.C. 6295(p)(1). These are the same reasons that DOE is considering the change of position that is contemplated by this proposed rule. DOE seeks comments on any reason to rescind or not rescind these regulations.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for

public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003.

C. Review Under the Paperwork Reduction Act

This proposed rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that

have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. 6297. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. DOE will assess the need for preparation of a Statement of Energy Effects under E.O. 13211.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rescission, if finalized as proposed, is expected to

be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed rescission, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will

present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact

you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE

electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary, U.S. Department of Energy. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to

sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

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

For the reasons set forth in the preamble, DOE is proposing to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Amend § 430.32 by revising paragraph (v) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(v) *Dehumidifiers.* (1) Dehumidifiers manufactured on or after October 1, 2012, shall have an energy factor that meets or exceeds the values set forth in 42 U.S.C. 6295(cc).

(2) Dehumidifiers manufactured on or after June 13, 2019, shall have an integrated energy factor that meets or exceeds the values set forth in 42 U.S.C. 6295(cc), except as follows:

Whole-home dehumidifier product case volume (cubic feet)	Minimum integrated energy factor (liters/kWh)
8.0 or less	1.77
More than 8.0	2.41

* * * * *

[FR Doc. 2025–08558 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2025–BT–STD–0017]

RIN 1904–AF87

Energy Conservation Program: Rescinding the Efficiency Standards for Battery Chargers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: DOE is proposing to rescind the efficiency standards for battery chargers. This will effectively remove battery charges from the Energy Conservation Program.

DATES: Comments must be received on or before July 15, 2025. DOE will hold a webinar on Thursday, May 29, 2025, from 1 to 4 p.m. See section III, “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0017. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0017, by any of the following methods:

(1) *Email:*

ApplianceStandardsQuestions@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0017 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies. No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index.

However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at [www.regulations.gov/docket/EERE–2025–BT–STD–0017](http://www.regulations.gov/docket/EERE-2025-BT-STD-0017). The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Attendance at the Public Meeting/ Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Public Meeting/Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind the efficiency standards for battery chargers, codified in 10 CFR 430.32(z). Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA),

Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include battery chargers. DOE proposed to establish new energy conservation standards for battery chargers in March 2012, and issued its final rule on June 13, 2016, establishing an energy conservation standard for battery chargers.

After a reevaluation of the battery charger standards, pursuant to the authority in 42 U.S.C. 6295(u)(1)(E)(i)(II), the Secretary has tentatively determined that no energy conservation standard for battery chargers is economically justified. Accordingly, we propose to rescind this rule in full and seek comment on all aspects of that proposal, including but not limited to the prior rule’s consistency with statutory authority and the Constitution, the prior rule’s costs and benefits, and the prior rule’s effect on innovation, development, and private enterprise.

In particular, the Secretary seeks comment on the factors for economic justifiability: “(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard; (II) the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard; (III) the total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard; (IV) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard; (V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard; (VI) the need for national energy and water conservation; and (VII) [any] other factors . . . relevant.” 42 U.S.C. 6295(o)(2)(B). The Secretary also seeks comment on whether the anti-backsliding provision in 42 U.S.C. 6295(o)(1) applies to battery chargers, which do not appear to be a “covered product” under Section 6292(a) and have no statutory minimum standard.

These proposed rule rescissions are not designed to achieve a maximum reduction in energy efficiency because the Secretary has tentatively determined that the current regulations are not economically justified, and that they are

inconsistent with a policy of maximally reducing regulatory burdens. *See* 42 U.S.C. 6295(p)(1). These are the same reasons that DOE is considering the change of position that is contemplated by this rule. DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates standards. Therefore, DOE initially concludes that the impacts of the proposed rule rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rule rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. *See* 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the

development of such regulations. 65 FR 13735.

DOE has examined this proposed rule rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects

of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule rescission would not result in any takings that might require compensation

under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed rule rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule rescission, if finalized as proposed, is

expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. If no participants register for the webinar, it will be cancelled. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: <https://www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines>. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the public meeting and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Public Meeting/ Webinar

DOE will designate a DOE official to preside at the public meeting/webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306) A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed rulemaking, until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to

technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail.

Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the

undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

For the reasons set forth in the preamble, DOE is proposing to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as follows:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

- 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.32 [Amended]

- 2. Amend § 430.32 by removing and reserving paragraph (z).

[FR Doc. 2025–08598 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2025–BT–STD–0038]

RIN 1904–AG03

Energy Conservation Program: Energy Conservation Standards for Consumer Furnace Fans

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: The Department of Energy (DOE or the Department) is considering whether to revise its existing regulations regarding the energy conservation standards for consumer furnace fans adopted under the Energy Policy and Conservation Act (EPCA). DOE is initiating this effort through this request for information (RFI) to invite public input on appropriate standard levels that are technologically feasible, economically justified, and result in significant conservation of energy.

DATES: *Comments:* Written comments and information are requested and will be accepted on or before June 16, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using

the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0038. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0038 and or regulatory identification number (RIN) 1904–AG03, by any of the following methods:

(1) *Email:*

FurnaceFans2025STD0038@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0038 and/or RIN 1904–AG03 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV (Public Participation) of this document.

Docket: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0038. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section IV, "Public Participation," for further information on how to submit comments through www.regulations.gov. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at

regulations.gov, under the docket number EERE-2025-BT-STD-0038.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Authority
- II. Background
- III. Discussion
- IV. Public Participation
- V. Approval of the Office of the Secretary

I. Authority

Among other things, EPCA, Public Law 94-163 (42 U.S.C. 6291-6317, as codified), authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment.¹ Title III, Part B² of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include consumer furnace fans,³ the subject of this document. 42 U.S.C. 6295(f)(4)(D). Specifically, EPCA directed DOE to

establish energy conservation standards for electricity used for the purpose of circulating air through ductwork. *Id.*

The energy conservation program under EPCA consists essentially of four parts: (1) testing; (2) labeling; (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. 42 U.S.C. 6297(a)-(c). DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. 42 U.S.C. 6297(d).

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. 42 U.S.C. 6295(o)(3)(A); 42 U.S.C. 6295(r). The DOE test procedures for consumer furnace fans appear at title

10 CFR part 430, subpart B, appendix AA.

Not later than six years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notice of proposed determination (NOPD) that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). 42 U.S.C. 6295(m)(1),(3). EPCA further provides that, not later than three years the issuance of a final determination not to amend standards, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). 42 U.S.C. 6295(m)(3)(B). DOE must make the analysis on which a NOPD or NOPR is based publicly available and provide an opportunity for written comment. 42 U.S.C. 6295(m)(2).

II. Background

DOE completed the rulemaking required under 42 U.S.C. 6295(f)(4)(D) by publishing a final rule in the **Federal Register** on July 3, 2014 ("July 2014 Final Rule"), through which the Department prescribed the current energy conservation standards for consumer furnace fans manufactured on and after July 3, 2019. 79 FR 38130. These standards are set forth in DOE's regulations at 10 CFR 430.32(y) and are shown in Table II.1.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR CONSUMER FURNACE FANS

Furnace fan product class *	Fan energy rating ** (watts/1,000 cubic feet per minute ("cfm"))
Non-Weatherized, Non-Condensing Gas ("NWG-NC")	FER = 0.044 * Q _{max} + 182
Non-Weatherized, Condensing Gas ("NWG-C")	FER = 0.044 * Q _{max} + 195
Weatherized, Non-Condensing Gas ("WG-NC")	FER = 0.044 * Q _{max} + 199
Non-Weatherized, Non-Condensing Oil Furnace Fan ("NWO-NC")	FER = 0.071 * Q _{max} + 382
Non-Weatherized Electric Furnace/Modular Blower Fan ("NWEF/NWMB")	FER = 0.044 * Q _{max} + 165
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan ("MH-NWG-NC")	FER = 0.071 * Q _{max} + 222
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan ("MH-NWG-C")	FER = 0.071 * Q _{max} + 240
Mobile Home Electric Furnace/Modular Blower Fan ("MH-EF/MB")	FER = 0.044 * Q _{max} + 101
Mobile Home Non-Weatherized Oil Furnace Fan ("MH-NWO")	Reserved
Mobile Home Weatherized Gas Furnace Fan ("MH-WG")	Reserved

* Furnace fans incorporated into hydronic air handlers, small-duct high-velocity ("SDHV") modular blowers, SDHV electric furnaces, and central air conditioners/heat pump indoor units are not subject to the standards listed in this table. See section IV.A.1 of this document for further discussion.

** Q_{max} is the airflow, in cfm, at the maximum airflow-control setting measured using the final DOE test procedure at 10 CFR part 430, subpart B, appendix AA.

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116-260 (Dec. 27, 2020), which reflects the last statutory amendments that impact Parts A and A-1 of EPCA.

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

³ The statute directs DOE to prescribe energy conservation standards or energy use standards for

"electricity used for purposes of circulating air through duct work." DOE colloquially refers to such products as "furnace fans."

DOE most recently completed a six-year-lookback review of the subject consumer furnace fans standards in a final determination published in the **Federal Register** on October 18, 2024 (“October 2024 Final Determination”). In that document, DOE determined that the energy conservation standards for consumer furnace fans (as adopted in the July 2014 Final Rule) do not need to be amended. 89 FR 83990.

III. Discussion

DOE is considering potential amendments to the energy conservation standards for consumer furnace fans codified at 10 CFR 430.32(y). The Secretary’s is proposing a new policy to reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the Secretary proposes eliminating that requirement. In this case, DOE was directed by Congress to adopt standards for consumer furnace fans, but the Department is revisiting levels set in the July 2014 Final Rule to determine whether they continue to be economically justified in light of DOE’s new policy supporting energy and water abundance, allowing Americans to produce and consume as much energy and water as they desire.

Consequently, DOE seeks public input as to the prior rule’s consistency with the applicable statutory requirements, the prior rule’s analysis of costs and benefits, and the prior rule’s effect on innovation, development, and private enterprise. DOE also seeks public input as to alternative standard levels for consumer furnace fans which would be technologically feasible, economically justified, and result in significant energy savings, as required by EPCA (please provide any supporting rationale and data).

DOE may consider standard levels both higher and lower than those currently set forth in 10 CFR 430.32(y). Although the statute provides at 42 U.S.C. 6295(o)(1) that “[t]he Secretary may not prescribe any amended standard which increases the maximum allowable energy use . . . or decreases the minimum required energy efficiency, of a covered product” (colloquially referred to as the “anti-backsliding provision”), DOE notes that this provision only applies to “covered products.” “Covered product” is defined at 42 U.S.C. 6291(2) as “a consumer product of a type specified in section 6292 of this title.” Consumer furnace fans are not included in 42 U.S.C. 6292, so accordingly, appear not to be subject to EPCA’s anti-backsliding restriction.

IV. Public Participation

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov*

provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters’ names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE’s policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except

information deemed to be exempt from public disclosure).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this request for information.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

[FR Doc. 2025-08583 Filed 5-12-25; 9:30 am]

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DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket EERE-2025-BT-DET-0024]

RIN 1904-AF94

Energy Conservation Program: Proposed Withdrawal of Determination of Portable Air Conditioners as a Covered Consumer Product

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking; proposed withdrawal of determination.

SUMMARY: DOE is proposing to withdraw its prior determination that portable air conditioners (“portable ACs”) qualify as covered products under Part A of Title III of the Energy Policy and Conservation Act, as amended (“EPCA”).

DATES: Written comments, data, and information are requested and will be accepted on or before July 15, 2025. DOE will hold a webinar on Thursday, May 29, 2025, from 1 p.m. to 4 p.m. See section III, “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE-2025-BT-DET-0024. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2025-BT-DET-0024, by any of the following methods:

(1) *Email:* PortableAC2025DET0024@ee.doe.gov. Include the docket number EERE-2025-BT-DET-0024 in the subject line of the message.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III (Public Participation) of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if a public meeting is held), comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-DET-0024. The docket web page contains instructions on how to access all documents, including public

comments, in the docket. See section III of this document for information on how to submit comments through www.regulations.gov.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in the Webinar
 - B. Procedures for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Webinar
 - D. Submission of Comments
 - E. Issues on Which DOE Seeks Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

Under EPCA, DOE may add consumer products to the list of covered products for which energy conservation standards can be established. 42 U.S.C. 6292(b)(1). The coverage determination procedures require DOE to conclude that classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this chapter, among other requirements. *Id.* at 42 U.S.C. 6292(b)(1)(A). Only after coverage is determined, may DOE then

adopt standards and test procedures regulating such products, pursuant to the requirements set out in the statute. See generally 42 U.S.C. 6293, 6295.

On July 5, 2013, DOE published in the **Federal Register** a notice of proposed determination of coverage (NOPD) in which it tentatively determined that portable ACs satisfy the provisions of 42 U.S.C. 6292(b)(1). 78 FR 40403. After considering public comments on the NOPD, DOE issued a final determination of coverage for portable ACs on April 18, 2016. 81 FR 22514. As part of the determination, DOE adopted a definition of “portable air conditioners” and amended the definition of “covered products” to include portable ACs. *Id.* at 81 FR 22514, 22519–22520.

DOE has reevaluated its prior determination of whether including portable ACs as a covered product is necessary and appropriate to carry out the purposes of EPCA. Based on this reevaluation, DOE has tentatively determined that, at this time, it is not necessary or appropriate to classify portable ACs as a covered product to carry out the purposes of EPCA. EPCA provides the Secretary discretion in classifying a type of consumer product as a covered product because the Secretary *may* classify if certain requirements are met. See 42 U.S.C. 6292(b) (emphasis added). While DOE found in the April 2016 Final Determination that classifying portable ACs as a covered product was needed to set energy conservation standards for portable ACs and carry out EPCA’s purposes to conserve energy supplies and provide for improved energy efficiency of other consumer products, DOE has reevaluated that determination. See 81 FR 22514, 22517. Using the discretion provided by EPCA for classifying additional covered products, DOE has tentatively determined that there are other avenues to conserve energy supplies than classifying portable ACs as a covered product and establishing standards. Therefore, DOE has tentatively found that classifying portable ACs as a covered product is not necessary or appropriate to carry out the purposes of EPCA.

Additionally, if DOE proceeds with issuing a final withdrawal of the coverage determination for portable ACs, then DOE subsequently lacks the authority to prescribe energy conservation standards for portable ACs. See 42 U.S.C. 6295(o)(2)(A) and (o)(3)(B). For this reason, DOE is also proposing to withdraw the applicable energy conservation standards for portable ACs. See 85 FR 1378 (Jan. 10, 2020); 10 CFR 430.32(cc).

DOE proposes to withdraw the final determination and accompanying energy conservation standards for portable ACs in full and seeks comment on all aspects of the proposal.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (“OIRA”) in the Office of Management and Budget (“OMB”) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed withdrawal of determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal does not establish test procedures or standards for portable ACs, and, if finalized, DOE would no longer have the authority to consider establishing or amending such measures. Therefore, DOE initially concludes that the impacts of the proposed withdrawal of determination and standards would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted.¹ DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed withdrawal of determination and accompanying standards, which proposes that portable ACs do not meet the criteria for a covered product for which the Secretary may consider prescribing energy conservation standards pursuant to 42 U.S.C. 6295(o) and (p), imposes no new information or record-keeping requirements. Accordingly, OMB

¹ Note that when DOE established energy conservation standards of portable ACs in 2020, DOE’s Regulatory Flexibility Act analysis determined that the final rule did not have a significant impact on a substantial number of small entities. For more details on the analysis DOE completed at the time, see 85 FR 1378, 1443 (Jan. 10, 2020).

clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed withdrawal of determination and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed withdrawal of determination. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of

new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed withdrawal of determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

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

any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed withdrawal of determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated

guidelines which are available at: www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%201QA%20Guidelines%20Dec%202019.pdf. DOE has reviewed this proposed withdrawal of determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed withdrawal of determination and accompanying withdrawal of energy conservation standards for portable ACs is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation

standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.² Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.³

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed withdrawal of determination and accompanying withdrawal of energy conservation standards and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” The proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. If no participants register for the webinar, it

² The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

³ The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

will be cancelled. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: <https://www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines>. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

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DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306) A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits

determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this notification of proposed determination no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any

document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (“CBI”). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names

compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed withdrawal of determination and potential withdrawal of the applicable energy conservation standards. DOE is particularly interested in receiving comments and views of interested parties concerning whether withdrawing the coverage determination of portable ACs as a covered product is consistent with the purposes of EPCA.

DOE is also interested in receiving views concerning other relevant issues that participants believe would affect the tentative conclusions presented in this document.

After the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it may prepare a final withdrawal of the coverage determination for portable ACs.

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking; proposed withdrawal of determination.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE is proposing to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

- 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.2 [Amended]

- 2. Amend § 430.2 as follows:

- a. In the definition of “Covered product”, amend paragraph (2) to remove the text “portable air conditioner,”; and
- b. Remove the definition of “Portable air conditioner”.

§ 430.32 [Amended]

- 3. Amend § 430.32 by removing and reserving paragraph (cc).

[FR Doc. 2025–08577 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY**10 CFR Part 430**

[EERE–2025–BT–STD–0011]

RIN 1904–AF81

Energy Conservation Program: Energy Conservation Standards for Conventional Cooking Tops

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: DOE is proposing to rescind the amended design requirements for conventional cooking tops. This will return the design requirements for conventional cooking tops to the standards for kitchen ranges and ovens set by Congress: Gas kitchen ranges and ovens having an electrical supply cord shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1990.

DATES:

Comments: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a webinar on Thursday, May 29, 2025, from 1 to 4 p.m. See section III, “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0011. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0011, by any of the following methods:

(1) **Email:** Cooktops2025STD0011@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0011 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) **Postal Mail:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) **Hand Delivery/Courier:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III, Public Participation, of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0011. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov. For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind the amended design requirements for conventional cooking tops, codified in 10 CFR 430.32(j)(1)(ii). For gas ranges and ovens, including conventional cooking tops, “manufactured on or after January 1, 1990,” Congress has set design requirements that “gas kitchen ranges and ovens having an electrical supply cord shall not be equipped with a constant burning pilot light.” (42 U.S.C. 6295(h)) DOE proposes to rescind the regulatory design requirements for conventional cooking tops manufactured on or after January 1, 1990, and seeks comment on all aspects of that proposal. The rescission will return the energy conservation standards to those in 6295(h)(1).

The National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, amended EPCA to establish prescriptive standards and design requirements for gas cooking products, requiring gas ranges and ovens with an electrical supply cord that are manufactured on or after January 1, 1990, not to be equipped with a constant burning pilot light. (42 U.S.C. 6295(h)(1)) NAECA also directed DOE to conduct two cycles of rulemakings to determine if more stringent or additional standards were justified for kitchen ranges and ovens. (42 U.S.C. 6295(h)(2)) NAECA did not specifically direct DOE to conduct additional cycles of rulemakings to determine whether the design requirements prescribed therein should also be amended. DOE is proposing to rescind the design requirements in its regulations to return the design requirements for conventional cooking tops to those prescribed by Congress.

DOE is proposing to rescind these regulations for multiple independent reasons, including but not limited to the following. The design requirements are not economically justifiable. Furthermore, the Secretary is proposing a new policy to reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the Secretary proposes eliminating that requirement. These design requirements are not necessary to fulfill DOE’s statutory mission.

These design requirements are not designed to achieve a maximum reduction in energy efficiency or use because the Secretary has tentatively determined that the portions of the current regulations that deviate from 6295 are not economically justified, and that they are inconsistent with the policy of maximally reducing regulatory burdens. See 42 U.S.C. 6295(p)(1).

These are the same reasons that DOE is considering the change of position that is contemplated by this proposed rule. DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003.

C. Review Under the Paperwork Reduction Act

This proposed rule imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in

EPCA. 42 U.S.C. 6297. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements:

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

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

G. Review Under the Unfunded Mandates Reform Act

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

local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to

OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,”

which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.²

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-

meetings-and-comment-deadlines.

Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

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A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any

¹ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

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Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form

letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary, U.S. Department of Energy. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.
Jennifer Hartzell,
Alternate Federal Register Liaison Officer,
U.S. Department of Energy.

For the reasons set forth in the preamble, DOE is proposing to amend part 430 of chapter II, subchapter D, of

title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Amend § 430.32 by:

- a. Removing paragraph (j)(1)(ii); and
- b. Redesignating paragraph (j)(1)(iii) as paragraph (j)(1)(ii).

[FR Doc. 2025–08589 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2025–BT–STD–0012]

RIN 1904–AF82

Energy Conservation Program: Energy Conservation Standards for Conventional Ovens

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: DOE is proposing to rescind the amended design requirements for conventional ovens. This will return the design requirements for conventional ovens to the standards for kitchen ranges and ovens set by Congress: Gas kitchen ranges and ovens having an electrical supply cord shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1990.

DATES:

Comments: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a webinar on Thursday, May 29, 2025, from 1 to 4 p.m. See section III, "Public Participation," for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0012. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0012, by any of the following methods:

(1) *Email: Ovens2025STD0012@ee.doe.gov*. Include the docket number EERE-2025-BT-STD-0012 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445.* If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445.* If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles ("faxes") will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III, "Public Participation," of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0012. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section, "Public Participation," for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment

Standards Program staff at (202) 287-1445 or by email:

ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind the amended design requirements for conventional ovens, codified in 10 CFR 430.32(j)(2)(i)-(ii). For gas ranges and ovens "manufactured on or after January 1, 1990," Congress has set design requirements that "gas kitchen ranges and ovens having an electrical supply cord shall not be equipped with a constant burning pilot light." (42 U.S.C. 6295(h)) DOE proposes to rescind the regulatory design requirements for conventional ovens manufactured on or after January 1, 1990, and seeks comment on all aspects of that proposal. The rescission will return the energy conservation standards to those in 42 U.S.C. 6295(h)(1).

The National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, amended EPCA to establish prescriptive standards and design requirements for gas cooking products, requiring gas ranges and ovens with an electrical supply cord that are manufactured on or after January 1, 1990, not to be equipped with a constant burning pilot light. (42 U.S.C. 6295(h)(1)) NAECA also directed DOE to conduct two cycles of rulemakings to determine if more stringent or additional standards were justified for

kitchen ranges and ovens. (42 U.S.C. 6295(h)(2)). NAECA did not specifically direct DOE to conduct additional cycles of rulemakings to determine whether the design requirements prescribed therein should also be amended. DOE is proposing to rescind the design requirements in its regulations to return the design requirements to those prescribed by Congress for multiple independent reasons.

The Secretary has tentatively determined that the amended design requirements are not economically justifiable. Additionally, the Secretary is proposing a new policy to reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the Secretary proposes eliminating that requirement. The amended design requirements are not required by statute.

These proposed rule rescissions are not designed to achieve a maximum reduction in energy efficiency or use because the Secretary has tentatively determined that the regulations are not economically justified, and that they are inconsistent with the policy of maximally reducing regulatory burdens. (See 42 U.S.C. 6295(p)(1)) These are the same reasons that DOE is considering the change of position that is contemplated by this proposed rule. DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003.

C. Review Under the Paperwork Reduction Act

This proposed rule imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that

would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. 6297. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of

them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rescission meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.²

¹ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

² The report is available at www.nationalacademies.org/our-work/review-of-

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and

methods-for-setting-building-and-equipment-performance-standards.

prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed rule rescission, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via
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www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

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Submitting comments via email, hand delivery/courier, or postal mail.

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address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

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Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports,

Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary, U.S. Department of Energy. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.
Jennifer Hartzell,
Alternate Federal Register Liaison Officer,
U.S. Department of Energy.

For the reasons set forth in the preamble, DOE is proposing to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Amend § 430.32 by:

- a. Removing paragraph (j)(2); and
- b. Redesignating paragraph (j)(3) as paragraph (j)(2).

[FR Doc. 2025–08623 Filed 5–12–25; 1:15 pm]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2025–BT–STD–002]

RIN 1904–AF92

Energy Conservation Program: Energy Conservation Standards for Residential Clothes Washers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: DOE is proposing to rescind the amended water use standards for residential clothes washers. If finalized, this will return the water use

requirement for clothes washers to the statutory water factor of not more than 9.5.

DATES:

Comments: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a meeting via a webinar on Thursday, May 29, 2025, from 1 p.m. to 4 p.m. See section III of this document, “Public Participation,” for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0022. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0022, by any of the following methods:

(1) Email:

ResClothesWashers2025STD0022@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0022 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) **Postal Mail:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) **Hand Delivery/Courier:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in

the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/ResClothesWashers2025STD0022@ee.doe.gov. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
- III. Public Participation
 - A. Participation in the Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind the regulatory water use requirements for residential clothes washers, codified in title 10 of the Code of Federal Regulations (“CFR”) 430.32(g). For a “top-loading or front-loading standard-size residential clothes washer” manufactured on or after January 1,

2011, Congress has set the water factor to not more than 9.5. (42 U.S.C. 6295(g)(9)) DOE, by regulation, has set more stringent requirements. For clothes washers manufactured after 2018, DOE has set the water factor for top-loading compact, top-loading standard, front-loading compact, and front-loading standard clothes washers to 12, 6.5, 8.3, and 4.7. 10 CFR 430.32(g)(1). A lower water factor is more efficient. For clothes washers manufactured after March 1, 2028, the DOE regulations switch to a water efficiency ratio. For top-loading ultracompact, top-loading standard, front-loading compact, and front-loading standard clothes washers the water efficiency ratio must be at least 0.29, 0.57, 0.71, and 0.77 respectively. 10 CFR 430.32(g)(2). After March 1, 2028, the DOE regulations also add a new category, semi-automatic clothes washers, which must have a water efficiency ratio of at least 0.27. *Id.*

DOE proposes to rescind these regulatory water use standards in their entirety and seeks comment on all aspects of that proposal. The rescission will return the water use requirements for top-loading or front-loading standard-size residential clothes washers to the standard in 42 U.S.C. 6295(g)(9), which is water factor of not more than 9.5. Compact clothes washers, under the statute, do not have a water factor requirement. DOE is proposing to rescind these regulations for multiple independent reasons, including but not limited to the following.

First, DOE has reconsidered the statutory authority for its water use regulations of clothes washers and concluded that the authority likely does not permit the regulations. As one court has suggested, “EPCA does not appear to contemplate overlap between the products subject to ‘energy’ regulation and those subject to ‘water’ regulation.” *Louisiana v. United States DOE*, 90 F.4th 461, 470 (5th Cir. 2024). Clothes washers use energy, so DOE can seemingly regulate the amount of energy used, but not the water use.

EPCA defines “energy conservation standard” as “a performance standard which prescribes a minimum level of energy efficiency or a maximum quantity of energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use.” 42 U.S.C. 6291(6)(A). EPCA further defines “water use” as “the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use.” 42 U.S.C. 6291(31)(A); *see also* 42 U.S.C. 6293(b)(3) (dividing energy use and water use for test procedures); 42 U.S.C. 6295(o) (similar). A clothes washer, no

matter the type, is not a showerhead, faucet, water closet, or urinal. Therefore, EPCA does not seem to contemplate DOE regulating the water use of clothes washers.

Under the initial EPCA, DOE did not regulate water use at all. Water use was added later, and was specifically limited to showerheads, faucets, water closets, and urinals. Even though Congress itself has set the water use for standard size clothes washers in section 6295(g)(9), the plain text of EPCA does not seem to permit DOE to change those standards, much less add new standards for compact clothes washers. Therefore, DOE seeks comment on all aspects of DOE’s statutory authority as relevant to the water use regulations of clothes washers.

Second, the Secretary has tentatively found that the water use regulations are not economically justified. Among other factors, the regulatory water use restrictions appear to lessen the utility of clothes washers by lengthening the time it takes to wash clothes. 85 FR 68727. And the regulations are not consistent with the need for national water conservation. Consumers are best situated to decide whether a given product is economically justified, as that is precisely what the free market does best.

Third, the Secretary is proposing a new policy to reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the secretary proposes eliminating that requirement. DOE’s new policy would support energy and water abundance, allowing Americans to produce and consume as much energy and water as they desire.

DOE has tentatively determined that there is no reliance interest in an unlawful regulation. *See Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 32 (2020). These proposed rescissions are not designed to achieve a maximum reduction in water efficiency or use because the Secretary has tentatively determined that the current regulations are unlawful, that they are not economically justified, and that they are inconsistent with the policy of maximally reducing regulatory burdens. *See* 42 U.S.C. 6295(p)(1). These are the same reasons that DOE is considering the change of position that is contemplated by this proposed rule. DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. If adopted, this proposal eliminates standards. Therefore, DOE initially concludes that the impacts of the proposed rule would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement

of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rule imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed

rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The

UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published

at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed rule is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy ("OSTP"), issued its Final Information Quality Bulletin for Peer Review ("the Bulletin"). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's

scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are "influential scientific information," which the Bulletin defines as "scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions." 70 FR 2664, 2667. In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.²

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 "Unleashing American Energy," E.O. 14192, "Unleashing Prosperity Through Deregulation," and Presidential Memorandum, "Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis." This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

¹ The 2007 "Energy Conservation Standards Rulemaking Peer Review Report" is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits

determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment.

Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail.

Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE is proposing to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.32 [Amended]

■ 2. Amend § 430.32 by:

■ a. In paragraph (g)(1) introductory text, removing the text “, and an Integrated Water Factor no greater than”;

■ b. In the table to paragraph (g)(1), removing the third column with the heading “Integrated water factor (gal/cycle/cu.ft)”;

■ c. In paragraph (g)(2)(i) introductory text, removing the text “and a Water Efficiency Ratio”; and

■ d. In the table to paragraph (g)(2)(i), removing the third column with the heading “Water efficiency ratio (lb/gal/cycle)”.

[FR Doc. 2025–08578 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2025–BT–STD–0014]

RIN 1904–AF84

Energy Conservation Program: Energy Conservation Program: Energy Conservation Standards for Microwave Ovens

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: DOE is proposing to rescind the energy conservation standards for microwave ovens. The rescission will eliminate the efficiency requirements for microwave ovens.

DATES:

Comments: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a webinar on Thursday, May 29, 2025, from 1 to 4 p.m. See section III, “Public

Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0014. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0014, by any of the following methods:

(1) Email:

MicrowaveOvens2025STD0014@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0014 and/or RIN 1904–AF84 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) Postal Mail: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) Hand Delivery/Courier: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III, “Public Participation,” of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0014. The docket web page contains instructions on how to access all documents, including public

comments, in the docket, as well as a summary of the rulemaking. See section III of this document, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind the energy conservation standards for microwave ovens, codified in 10 CFR 430.32(j)(3). EPCA lists nineteen consumer products that are considered covered products under the statute, including kitchen ranges and ovens. 42 U.S.C. 6292(a)(1)–(19)). Under EPCA, DOE may add consumer products to the list of covered products for which energy conservation standards can be established. (42 U.S.C. 6292(b)(1)) The coverage determination procedures require DOE to conclude that classifying products of such type as covered

products is necessary or appropriate to carry out the purposes of this chapter, among other requirements. (42 U.S.C. 6292(b)(1)(A)) Only after coverage is determined, may DOE then adopt standards and test procedures regulating such products, pursuant to the requirements set out in the statute. (See generally 42 U.S.C. 6293, 6295)

DOE may also prescribe energy conservation standards for a type (or class) of covered product that consumes a different kind of energy from that consumed by other covered products of a similar type, or that have a capacity or performance-related feature which other products within its type do not have and which justifies a different standard. (42 U.S.C. 6295(q)) The term “class of covered products” means a group of covered products, the functions or intended uses of which are similar, as determined by the Secretary. (42 U.S.C. 6291(9)) On September 8, 1998, DOE published in the **Federal Register** a Final Rule amending its regulations to substitute the term “kitchen ranges and ovens” with “cooking products,” in 10 CFR 430.32(j).

DOE proposes to rescind the efficiency standards for microwave ovens in their entirety and seeks comment on all aspects of that proposal. The proposed rule rescission will eliminate the efficiency requirements for microwave ovens. DOE is proposing to rescind these regulations for multiple independent reasons, including but not limited to the following.

The purpose of section 6292 is to provide Federal energy conservation standards applicable to covered products and authorize the Secretary to prescribe amended or new energy conservation standards for each type (or class) of covered product. 42 U.S.C. 6292. The term “covered product” means a consumer product of a type specified in section 6292 of title 42. Microwave ovens are not a consumer product type specified in section 6292, which lists kitchen ranges and ovens. Microwave ovens have not been determined by the Secretary to be a covered product. Nor are microwave ovens specifically discussed in 42 U.S.C. 6295(h), which provides energy conservation standards applicable to covered products. Removing the conservation standards for microwave ovens from the “cooking products” covered product class in 10 CFR 430.32 is consistent with the plain meaning of 42 U.S.C. 6292(10). Providing energy conservation standards for products not deemed to be covered products is inconsistent with 42 U.S.C. 6295.

Additionally and independently, the Secretary is proposing a new policy to

reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the Secretary proposes eliminating that requirement. DOE’s new policy would support energy and water abundance, allowing Americans to produce and consume as much energy and water as they desire.

DOE has tentatively determined that there is no reliance interest in an unlawful regulation. *See Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 32 (2020). These proposed rule rescissions are not designed to achieve a maximum reduction in energy efficiency because the Secretary has tentatively determined that the current regulations are unlawful, that they are not economically justified, and that they are inconsistent with the policy of maximally reducing regulatory burdens. See 42 U.S.C. 6295(p)(1). These are the same reasons that DOE is considering the change of position that is contemplated by this proposed rule. DOE seeks comments on any reason to rescind or not rescind these regulations.

DOE requests comment on all aspects of its proposal to rescind energy conservation standards for microwave ovens.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation

of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003.

C. Review Under the Paperwork Reduction Act

This proposed rule rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to

have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. 6297. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

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

rescission meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant

adverse effect on the supply, distribution, or use of energy.

Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.²

¹ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154, “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of

presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed rule rescission, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and

contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover

letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting

and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary, U.S. Department of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

For the reasons set forth in the preamble, DOE is proposing to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.32 [Amended]

■ 2. Amend § 430.32 by removing paragraph (j)(3).

[FR Doc. 2025–08588 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2025–BT–STD–0026]

RIN 1904–AF96

Energy Conservation Program: Energy Conservation Standards for External Power Supplies

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: DOE is proposing to rescind its existing regulations regarding the energy conservation standards for consumer external power supplies

adopted under the Energy Policy and Conservation Act (EPCA).

DATES:

Comments: Written comments, data, and information are requested and must be received on or before July 15, 2025.

Meeting: DOE will hold a webinar on Thursday, May 29, 2025, from 1 to 4 p.m. See section III, “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0026. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0026 by any of the following methods:

(1) *Email:*

ExtPowerSupplies2025STD0026@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0026 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III (Public Participation) of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available,

such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0026. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section III, “Public Participation,” for further information on how to submit comments through www.regulations.gov. In accordance with 5 U.S.C. 553(b)(4), a summary of this rulemaking may be found at www.regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Attendance at the Public Meeting/ Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Public Meeting/Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. Discussion

DOE is proposing to rescind the efficiency standards for external power supplies (EPS), codified in 10 CFR

430.32(w). Title III, Part B of the Energy Policy and Conservation Act of 1975 (“EPCA”), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Congress added EPSs as a covered product in the Energy Policy Act of 2005, Public Law 109–58. Congress subsequently passed the Energy Independence and Security Act of 2007 and provided therein efficiency standards for Class A EPSs as well as a schedule for the amendment of efficiency standards. Public Law 110–140, 301, 121 Stat. 1492, 1549–51 (2007). This schedule requires the Secretary to publish final rules determining whether the standards established by EISA should be amended. *Id.* DOE proposed to adopt new energy conservation standards for EPSs in June 2009, and issued its final rule on September 19, 2011, amending the energy conservation standard for EPSs. DOE again amended the energy conservation standard on February 10, 2014.

After reevaluation of the EPS standards, pursuant to 42 U.S.C. 6295(u)(3)(D), the Secretary has tentatively determined that the standards legislated by Congress do not require amendment and the current regulatory standards are not economically justified. Accordingly, DOE is proposing to rescind the current rule, last amended by DOE on February 10, 2014, via 79 FR 7846, Energy Conservation Program: Energy Conservation Standards for External Power Supplies, and codified in 10 CFR 430.32. This rescission will result in a reversion to the efficiency standard legislated by Congress in the Energy Independence and Security Act of 2007.

EPCA “provide[s] Federal energy conservation standards applicable to covered products,” and also “authorize[s] the Secretary to prescribe amended or new energy conservation standards for each type (or class) of covered product.” 42 U.S.C. 6295(a). DOE must follow specific statutory criteria for prescribing new or amended standards for covered products. EPCA also specifies that the Secretary may not prescribe any amended standard which “increases the maximum allowable energy use, or, in the case of showerheads, faucets, water closets, or urinals, water use, or decreases the minimum required energy efficiency, of a covered product.” 42 U.S.C. 6295(o)(1). This restriction is generally referred to as the “anti-backsliding” provision. Additionally, EPCA specifies that any new or amended energy conservation standard for any type of

covered product shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. 42 U.S.C. 6295(o)(2)(A).

The Secretary has reevaluated DOE's statutory authority and tentatively determined that when DOE rescinds a rule in full it has not "prescribe[d] any amended standard" that falls under the anti-backsliding provision. See 42 U.S.C. 6295(o)(1). Moreover, even if a rescission is an "amended standard," the anti-backsliding provision only prevents DOE from setting standards below the statutory maximum or minimum.

This position appears to be supported by the legislative history surrounding the National Appliance Energy Conservation Act of 1987 (NAECA), which amended EPCA to include the anti-backsliding provision. In summarizing NAECA, the Committee on Energy and Natural Resources reported that "[a]fter the 3 to 10 year 'lock-in' period, DOE may promulgate new standards for each product which may not be less than those established by the legislation." 133 Cong. Rec. S1909–01 (Feb. 5, 1987) (emphasis added). Legislation refers to the standards set by Congress, not the regulatory standards set by DOE. Senator J. Bennett Johnston, the NAECA sponsor, explained that NAECA would avoid costly regulating "by legislatively establishing standards which have already been agreed to by the principal parties." 133 Cong. Rec. S1909–01 (Feb. 5, 1987) (emphasis added). These statements show that the standards set by the NAECA legislation—and all subsequent congressionally enacted legislation—are the focal point to which the anti-backsliding provision attaches. Those are the "maximum allowable" or "minimum required" standards. See 42 U.S.C. 6295(o)(1).

There are also various textual clues that backsliding applies to the statutory standards, not subsequent regulatory standards. Other parts of the statute consistently refer to the statutory standards as maximum or minimum standards. See 42 U.S.C. 6295(i)(1)(B). Moreover, Subsection (i) of 42 U.S.C. 6295, which was added by the Energy Policy Act of 1992, Public Law 102–486 (Oct. 24, 1992), allows the Secretary to increase or decrease regulatory standards but references only subsection (n)(1) (allowing petitions for more stringent standards for some products), not 42 U.S.C. 6295(o)(1). This suggests 42 U.S.C. 6295(o)(1) is not a barrier to loosening or tightening regulatory standards, just statutory standards.

It makes little sense for the anti-backsliding provision to apply to regulatory standards. The statutory standards were crafted by Congress and agreed upon by many stakeholders. Regulatory standards, to the contrary, are based in point-in-time determinations made by DOE. Standards prescribed at one time as economically justified might not be economically justified at a later date. 42 U.S.C. 6295(o)(2)(A). DOE must be able to reconsider its regulations in both directions, to make sure standards meet current national energy needs and are justified by the market. Economic conditions, and energy conditions, are constantly changing.

DOE is seeking comment on all aspects of this proposal, including but not limited to the prior rule's consistency with statutory authority and the constitution, the prior rule's costs and benefits, the prior rule's effect on innovation, development, and private enterprise, the anti-backsliding provision, and the prior rule's economic justification under the statutory factors.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates standards. Therefore, DOE initially concludes that the impacts of the proposed rescission would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed action imposes no new information or record-keeping requirements. Accordingly, the OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will

complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for

affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. DOE has reviewed this proposed rule rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any

successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rulemaking would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical

methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rescission, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting webinar, please notify the Appliance and Equipment Standards staff at (202) 287–1445 or Appliance_Standards_Public_Meetings@ee.doe.gov.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website at <https://www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines>. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this notice of proposed rulemaking, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the public meeting and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. 42 U.S.C. 6306. A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed rulemaking, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov*

provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail.

Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except

information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking; request for comment.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

For the reasons set forth in the preamble, DOE proposes to amend part 430 of chapter II, subchapter D, of title 10, of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.32 [Amended]

■ 2. Amend § 430.32 by removing and reserving paragraph (w).

[FR Doc. 2025–08587 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2025–BT–STD–0019]

RIN 1904–AF89

Energy Conservation Program: Energy Conservation Standards for Compact Residential Clothes Washers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: DOE is proposing to rescind the efficiency standards for compact residential clothes washers. If adopted, this will eliminate the efficiency standards for compact residential clothes washers completely, leaving the standards for standard size residential clothes washers.

DATES:

Comments: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a meeting via a webinar on Thursday, May 29, 2025, from 1 p.m. to 4 p.m. See section III of this document, “Public Participation,” for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0019. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0019, by any of the following methods:

(1) *Email:* CompactCW2025STD0019@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0019 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000

Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0019. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–11000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: David.Taggart@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001

- K. Review Under Executive Order 13211
- L. Review Under the Information Quality Bulletin for Peer Review
- M. Review Under Additional Executive Orders and Presidential Memoranda

III. Public Participation

- A. Participation in the Webinar
- B. Procedure for Submitting Prepared General Statements for Distribution
- C. Conduct of the Webinar
- D. Submission of Comments
- E. Issues on Which DOE Seeks Comments

IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind the efficiency standards for compact residential clothes washers, codified in title 10 of the Code of Federal Regulations (“CFR”) 430.32(g). DOE has set regulatory efficiency standards for top-loading or front-loading compact clothes washers, defined as clothes washers with “less than 1.6 ft capacity.” 10 CFR 430.32(g). Top-loading compact washers manufactured after January 1, 2018, must have an integrated modified energy factor of at least 1.15 and a water factor of not more than 12.0. 10 CFR 430.32(g)(1). Front-loading compact washers must have an integrated modified energy factor of at least 1.13 and a water factor of not more than 8.3. *Id.* Beginning on March 1, 2028, such top-loading washers must have an energy efficiency ratio of at least 3.79 and a water efficiency ratio of at least 0.29. 10 CFR 430.32(g)(2). And such front-loading washers must have an energy efficiency ratio of at least 5.02 and a water efficiency ratio of at least 0.71. *Id.*

DOE proposes to rescind these efficiency standards for compact washers in their entirety and seeks comment on all aspects of that proposal. If adopted, the rescission will eliminate the efficiency requirements for top-loading or front-loading compact-size residential clothes washers. DOE is proposing to rescind these regulations for multiple independent reasons, including but not limited to the following.

First, DOE has reconsidered the statutory authority for its compact residential clothes washers and concluded that the authority likely does not permit the regulations. Congress set efficiency standards “top-loading or front-loading standard-size residential clothes washer[s] manufactured on or after January 1, 2011.” (42 U.S.C. 6295(g)(9)(A)) Congress specified “standard-size” for its requirements, and did not set a standard for compact washers. Congress then directed DOE “[n]ot later than December 31, 2011,” to “publish a final rule determining whether to amend *the standards in*

effect for clothes washers manufactured on or after January 1, 2015.” (42 U.S.C. 6295(g)(9)(B) (emphasis added)) Thus, it appears that DOE has statutory authority to amend the standards for standard-size clothes washers, but not other clothes washers. DOE, therefore, has tentatively concluded that it lacks authority to issue regulations for compact clothes washers unless it makes a determination to classify compact washers as a consumer product under 42 U.S.C. 6292(b). And the Secretary has tentatively determined that it is neither necessary nor appropriate to classify compact residential clothes washers as consumer products.

Second, the Secretary has tentatively found that the efficiency standards for compact washers are not economically justified. Among other factors, the efficiency standards appear to lessen the utility of clothes washers by lengthening the time it takes to wash clothes. See generally 85 FR 68727. And the regulations are not consistent with the need for national water conservation. Consumers are best situated to decide whether a given product is economically justified, as that is precisely what the free market does best.

Third, the Secretary is proposing a new policy to reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the secretary proposes eliminating that requirement. DOE’s new policy would support energy and water abundance, allowing Americans to produce and consume as much energy and water as they desire.

DOE has tentatively determined that there is no reliance interest in an unlawful regulation. See *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 32 (2020). These proposed rescissions are not designed to achieve a maximum reduction in energy efficiency because the Secretary has tentatively determined that the current regulations are unlawful, that they are not economically justified, and that they are inconsistent with the policy of maximally reducing regulatory burdens. (See 42 U.S.C. 6295(p)(1)) These are the same reasons that DOE is considering the change of position that is contemplated by this rule. DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. If adopted, this proposal eliminates standards. Therefore, DOE initially concludes that the impacts of the proposed rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rule imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, as set forth

in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements:

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

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

G. Review Under the Unfunded Mandates Reform Act

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

local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to

OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. DOE has reviewed this proposed rule rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are

“influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other

participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial

information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person

submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.
Treena V. Garrett,
*Federal Register Liaison Officer, U.S.
Department of Energy.*

For the reasons set forth in the preamble, DOE is proposing to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.32 [Amended]

■ 2. Amend § 430.32 by removing and reserving paragraphs (g)(1)(i) and (iii) and (g)(2)(i)(A)(3) and footnote 2 to the table in paragraph (g)(2)(i).

[FR Doc. 2025–08581 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2025–BT–TP–0035]

RIN 1904–AG06

Energy Conservation Program: Test Procedures for Commercial Warm Air Furnaces

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Proposed rule; request for comment.

SUMMARY: The Department of Energy (DOE or the Department) is proposing to amend the test procedure for commercial warm air furnaces adopted under the Energy Policy and Conservation Act by rescinding Appendix B, "Uniform Test Method for Measurement of the Energy Efficiency of Commercial Warm Air Furnaces (Thermal Efficiency Two)." Upon further evaluation, the Department has tentatively determined that Appendix B is unduly burdensome to conduct, thereby failing to meet the statutory criteria for adoption of a test procedure. Commercial warm air furnaces will continue to be subject to the testing requirements of Appendix A, "Uniform Test Method for Measurement of the Energy Efficiency of Commercial Warm Air Furnaces (Thermal Efficiency)." DOE invites public input on its proposal.

DATES:

Comments: Written comments and information are requested and will be accepted on or before July 15, 2025.

Meeting: DOE will hold a public meeting webinar on Thursday, May 29, 2025 from 1:00 p.m. to 4:00 p.m. See section V (Public Participation) for registration information, participant instructions, and information about the

capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE-2025-BT-TP-0035. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2025-BT-TP-0035 and or regulatory identification number (RIN) 1904-AG06, by any of the following methods:

(1) *Email: ComWarmAirFurnaces2025TP@ee.doe.gov*. Include the docket number EERE-2025-BT-TP-0035 and/or RIN 1904-AG06 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V (Public Participation) of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at

www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-TP-0035. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section V, "Public Participation," for further information on how to submit

comments through www.regulations.gov. In accordance with 5 U.S.C. 553(b)(4), a summary of this rulemaking may be found at regulations.gov, under the docket number EERE-2025-BT-TP-0035.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Authority
- II. Background
- III. Discussion
- IV. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- V. Public Participation
 - A. Attendance at the Public Meeting Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Public Meeting Webinar
 - D. Submission of Comments
- VI. Approval of the Office of the Secretary

I. Authority

The Energy Policy and Conservation Act, as amended (EPCA),¹ among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. 42 U.S.C. 6291-

6317. Title III, Part C² of EPCA, Public Law 94-163 (42 U.S.C. 6311-6317, as codified) added by Public Law 95-619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This covered equipment includes commercial warm air furnaces (CWAFFs), the subject of this proposed rule. 42 U.S.C. 6311(1)(J).

The energy conservation program under EPCA consists essentially of four parts: (1) testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316; 42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making other representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE uses these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA.

Federal energy efficiency requirements for covered products/equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. 42 U.S.C. 6316(a), (b); 42 U.S.C. 6297. DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. 42 U.S.C. 6316(b)(2)(D).

Under 42 U.S.C. 6314, EPCA also sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures not be unduly burdensome to conduct. 42 U.S.C. 6314(a)(2).

EPCA requires that the test procedure for CWAFFs be those generally accepted industry testing procedures or rating procedures developed or recognized by

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116-260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A-1 of EPCA.

² For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A-1.

the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), as referenced in ASHRAE Standard 90.1, “Energy Standard for Buildings Except Low-Rise Residential Buildings” (ASHRAE Standard 90.1). 42 U.S.C. 6314(a)(4)(A). Further, if such industry test procedure is amended, DOE must amend its test procedure to be consistent with the amended industry test procedure, unless DOE determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that such amended test procedure would not meet the requirements in 42 U.S.C. 6314(a)(2) and (3) related to representative use and test burden, in which case DOE may establish an amended test procedure that does satisfy those statutory provisions. 42 U.S.C. 6314(a)(4)(B) and (C).

EPCA also requires that, at least once every seven years, DOE evaluate test procedures for each type of covered equipment, including CWAFFs, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. 42 U.S.C. 6314(a)(1)–(3).

In addition, if DOE determines that a test procedure amendment is warranted, the Department must publish proposed test procedures in the **Federal Register** and afford interested persons an opportunity (of not less than 45 days duration) to present oral and written data, views, and arguments on the proposed test procedures. 42 U.S.C. 6314(b). If DOE determines that test procedure revisions are not appropriate, DOE must publish in the **Federal Register** its determination not to amend the test procedures. 42 U.S.C. 6314(a)(1)(A)(ii).

II. Background

In January 2023, ASHRAE released the latest version of ASHRAE Standard 90.1 (ASHRAE Standard 90.1–2022), which updated the referenced industry standards for testing CWAFFs to reflect the most recent versions of those standards that are currently available, thereby triggering DOE’s rulemaking obligations under EPCA. Consequently, DOE conducted a rulemaking to consider amending the test procedure for CWAFFs in satisfaction of both the “ASHRAE trigger” requirement under

42 U.S.C. 6314(a)(4)(B) and the 7-year lookback review requirement specified in EPCA under 42 U.S.C. 6314(a)(1). DOE completed this rulemaking by publication of a final rule in the **Federal Register** on June 2, 2023 (“June 2023 Final Rule”), through which the Department prescribed the current test procedure for CWAFFs (*i.e.*, Appendix A) manufactured on and after May 28, 2024. 88 FR 36217. Compliance with Appendix B (also adopted as part of the June 2023 Final Rule) is not required until the compliance date of any energy conservation standards for CWAFFs denominated in terms of Thermal Efficiency Two (TE2). The CWAFFs test procedure is set forth in DOE’s regulations at 10 CFR part 430, subpart D, appendices A and B.

The CWAFFs test procedure final rule was challenged by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), which filed a petition for review of the final rule on August 1, 2023 in the United States Court of Appeals for the Fourth Circuit. In a February 6, 2024, order, the Fourth Circuit granted a voluntary remand of the final rule to DOE to determine whether establishment of the test procedure for the TE2 metric is supported by the specific provisions applicable to CWAFFs under EPCA. More specifically, DOE agreed in this voluntary remand to not enforce the TE2 test procedure unless and until the Department determines that the TE2 test procedure is consistent with the amended industry test procedure, or determines, supported by clear and convincing evidence, that the amended industry test procedure fails to satisfy the statutory requirements.

On January 17, 2025, DOE published a final determination in the **Federal Register** (“January 2025 Final Determination”), which provided DOE’s conclusion that the amended industry test procedure fails to satisfy EPCA’s statutory requirements, thereby supporting DOE’s finding that the test procedure incorporating the TE2 metric is justified under the applicable statutory criteria. 90 FR 5560. In that document, DOE pointed to the industry standard’s failure to account for CWAFF jacket losses or part-load operation, which the Department considered significant factors in terms of CWAFF energy use. Thus, DOE reasoned that the industry standard does not account for significant variations in energy use across different CWAFF models. Consequently, DOE determined that the industry test procedure was not reasonably designed to produce test results which reflect energy efficiency during a representative average use cycle that, as determined by DOE,

includes jacket losses and part-load operation for the TE2 metric. 90 FR 5560, 5565–5566 (Jan. 17, 2025).

III. Discussion

DOE is once again reviewing the test procedure for CWAFFs codified at 10 CFR part 430, subpart D, appendices A and B. The Secretary is pursuing a new policy to reduce regulatory burden wherever possible. Under that policy, DOE is reevaluating existing test procedures to determine whether they are unduly burdensome to conduct. In this case, after a reevaluation of the CWAFFs test procedure pursuant to the authority in 42 U.S.C. 6314(a)(1)–(4), the Secretary has tentatively determined, after reviewing the reasoning of the June 2023 Final Rule and the January 2025 Final Determination, that DOE had insufficient evidence to support adoption of the TE2 metric and overestimated the impacts of jacket losses and part-load operation on CWAFF energy use. Furthermore, the Secretary has tentatively concluded that DOE underestimated the burdens of the TE2 test procedure in 10 CFR part 430, subpart D, appendix B. Accordingly, DOE proposes to remove the definition of “Thermal efficiency two” and Appendix B from its regulations for commercial warm air furnaces.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed action under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal rescinds the existing regulatory standards developed and adopted by DOE and reverts to the prior procedures for these products. Therefore, DOE initially concludes that the impacts of its burden-reducing proposal would not have a “significant economic impact on a substantial number of small entities,” and, therefore, the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed action would impose no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National

Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposal and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. 6297. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct

rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a), (b). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at

www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and

has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed rule is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private

sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154, “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

V. Public Participation

A. Attendance at the Public Meeting Webinar

The time and date of the public meeting webinar are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting webinar, please notify the Appliance and Equipment Standards staff at (202) 287–1445 or Appliance_Standards_Public_Meetings@ee.doe.gov.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website at <https://www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines>. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the public meeting and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Public Meeting Webinar

DOE will designate a DOE official to preside at the public meeting webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA, 42 U.S.C. 6306. A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting webinar, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed rulemaking, until the end of the comment period.

The public meeting webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other

participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting webinar will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial

information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person

submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE’s policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comment.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Incorporation by reference, Recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE is proposing to amend part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§ 431.72 [Amended]

■ 2. Amend § 431.72 by removing the definition for “Thermal efficiency two.”

Appendix A to Subpart D of Part 431 [Amended]

■ 3. Amend appendix A to subpart D of part 431 by removing the second paragraph of the introductory note.

Appendix B to Subpart D of Part 431 [Removed]

■ 4. Remove appendix B to subpart D of part 431.

[FR Doc. 2025–08580 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2025–BT–TP–0032]

RIN 1904–AG02

Energy Conservation Program: Test Procedures for Small Electric Motors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy

ACTION: Proposed rulemaking; request for comments.

SUMMARY: The Department of Energy (“DOE” or “the Department”) is proposing to rescind its regulations establishing a small electric motor nationally recognized certification and testing laboratory accreditation program. The Department seeks comments on any reason to rescind or not rescind these regulations.

DATES: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a webinar on Thursday, May 29, 2025, from 1 to 4 p.m. See section III, “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–TP–0032. Follow the instructions for submitting comments. Alternatively, interested

persons may submit comments, identified by docket number EERE–2025–BT–TP–0032, by any of the following methods:

(1) *Email:*

SmallElecMotors2025TP0032@ee.doe.gov. Include the docket number EERE–2025–BT–TP–0032 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-TP-0032. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section III of this document, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Attendance at the Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Public Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

Title III of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6291, *et seq.*) sets forth a variety of provisions designed to improve appliance and commercial equipment energy efficiency. Part C of Title III (42 U.S.C. 6311–6317), which was subsequently redesignated as Part A–1 for editorial reasons, establishes an energy conservation program for certain industrial equipment, which includes small electric motors, the subject of this document. 42 U.S.C. 6311(1)(A), 6313(b). Section 345(c) of EPCA directs the Secretary of Energy (“Secretary”) to require manufacturers of “electric motors” to certify, through an independent testing or certification program nationally recognized in the United States, that any electric motor subject to EPCA efficiency standards meets the applicable standard. 42 U.S.C. 6316(c). There is no such requirement in EPCA for independent testing or certification applicable to small electric motors, but DOE voluntarily added regulations establishing a certification program and procedures governing that

program to the Code of Federal Regulations (“CFR”) at 10 CFR 431.447 and 448. See 87 FR 26608, 26639–26640 (May 4, 2012).

The Secretary is pursuing a new policy to reduce regulatory burden wherever possible. Under that policy, unless a regulatory standard is required by statute, the Secretary proposes eliminating that requirement. As such, DOE is proposing to rescind the regulations establishing and governing the small electric motor nationally recognized certification and testing laboratory accreditation program.

DOE seeks comment on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

For the reasons stated in the preamble, this proposed rule rescission is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed rule rescission does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed rule rescission was not submitted to OIRA for review under E.O. 12866.

B. Review Under Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act

(SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal rescinds regulations. Therefore, DOE initially concludes that the impacts of the proposed rule would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an initial regulatory flexibility analysis (IRFA) is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rulemaking imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.*

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the

necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. 6316(a), (b); 42 U.S.C. 6297. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this

proposed rule meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed rule is not a significant regulatory action under E.O. 12866. Moreover, it would not have a

significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.²

¹ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154, “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of

presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this notice of proposed rulemaking no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will

require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter

will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of the Department of Energy. That document with the original signature and date is

maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

For the reasons set forth in the preamble, DOE is proposing to amend part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§§ 431.447 and 431.448 [Removed]

■ 2. Remove and reserve §§ 431.447 and 431.448.

[FR Doc. 2025–08592 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2025–BT–STD–0015]

RIN 1904–AF85

Energy Conservation Program: Energy Conservation Standards for Automatic Commercial Ice Makers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: DOE is proposing to rescind the amended water use standards for automatic commercial ice makers (ACIMs). This will return the water use standards for ACIMs to the statutory baseline.

DATES: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a public meeting webinar on Thursday, May 29, 2025 from 1:00 p.m. to 4:00 p.m. See section III of this document, "Public

Participation,” for registration information, participant instructions, and information about the capabilities available to webinar participants. DOE invites public input on its proposal.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE-2025-BT-STD-0015. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2025-BT-STD-0015, by any of the following methods:

(1) *Email:* ApplianceStandardsQuestions@ee.doe.gov. Include the docket number EERE-2025-BT-STD-0015 and/or RIN 1904-AF85 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III (Public Participation) of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0015. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section

III of this document, “Public Participation,” for further information on how to submit comments through www.regulations.gov. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at www.regulations.gov, under the docket number EERE-2025-BT-STD-0015.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866 and 13563
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Attendance
 - B. Procedures
 - C. Conduct of the Meeting
 - D. Submission of Comments
 - E. Issues on Which DOE Seeks Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

The Energy Policy and Conservation Act, Public Law 94-163, as amended (EPCA),¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. 42 U.S.C. 6291–

6317. Title III, Part C² of EPCA, established the Energy Conservation Program for Certain Industrial Equipment. 42 U.S.C. 6311–6317. This includes ACIM equipment, the subject of this proposed rulemaking. 42 U.S.C. 6311(1)(F).

Pursuant to this authority, DOE is proposing to rescind the amended water conservation standards for ACIMs, which are codified at section 431.136 of title 10 of the Code of Federal Regulations (CFR). Congress required certain types of ACIMs—water-cooled ice-making head ACIMs and water-cooled self-contained ACIMs—to have maximum condenser water use in gallons per 100 pounds of ice using formulas of 200–0.022H (where H is the harvest rate in pounds per 24 hours) and 191–0.0315H (where H is the harvest rate in pounds per 24 hours). See 42 U.S.C. 6313(d)(1). DOE, by regulation, has set more stringent water use requirements, as certain types of batch water-cooled ice-making head and water-cooled self-contained ACIMs now have maximum condenser water use of 145 gallons per 100 pounds of ice and 112 gallons per 100 pounds of ice. 10 CFR 431.136. DOE also established new water conservation standards for certain types of continuous water-cooled ice-making head to have maximum condenser water use of 180–0.0198H (where H is the harvest rate in pounds per 24 hours) and 130.5 gallons per 100 pounds of ice, and continuous water-cooled self-contained ACIMs 153–0.0252H (where H is the harvest rate in pounds per 24 hours). *Id.*

DOE proposes to rescind the water factor requirements in their entirety and seeks comment on all aspects of that proposal. The rescission would return the water use requirements to the statutory standards in 42 U.S.C. 6313(d)(1). The Secretary has tentatively determined that the anti-backsliding provision in 42 U.S.C. 6295(o)(1), referenced for ACIMs through a cross-walk in 42 U.S.C. 6316(a), does not apply here, because section (o)(1) only applies to water use “in the case of showerheads, faucets, water closets, or urinals.”

Additionally, the Secretary has tentatively determined that DOE lacks authority to regulate the water use of ACIMs. Part A–1 of EPCA defines “energy conservation standard” as “(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or (B) a design requirement for a product.” 42 U.S.C. 6311(18). The

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

² For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

purpose of Part A–1 refers only to improve the efficiency of electric motors and pumps and certain other industrial equipment in order to conserve the energy resources of the Nation. *Id.* at section 6312(a). Conserving water resources is not a purpose of this part of EPCA. Therefore, when the statute directs DOE to issue a final rule for ACIMs to determine whether amending the applicable standards is technologically feasible and economically justified, that direction is only applicable to the energy conservation standards, not the water use standards. *See id.* at section 6313(d)(3).

Moreover, the Secretary is proposing a new policy to reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the Secretary proposes eliminating that requirement. This new policy would support energy and water abundance, allowing Americans to produce and consume as much energy and water as they see fit.

DOE has tentatively determined that there is no reliance interest in the water use standards. DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

these principles and the requirements of E.O. 12866.

B. Review Under Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates amended water conservation standards. Therefore, DOE initially concludes that the impacts of the proposed rules would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rulemaking imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing

policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule

that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal

be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. DOE will assess the need for preparation of a Statement of Energy Effects under E.O. 13211.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.³ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.⁴

³ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

⁴ The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

III. Public Participation

A. Attendance at the Public Meeting/ Webinar

The time and date of the public meeting webinar are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting, please notify the Appliance and Equipment Standards staff at (202) 287-1445 or Appliance_Standards_Public_Meetings@ee.doe.gov.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website at www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the public meeting and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Public Meeting Webinar

DOE will designate a DOE official to preside at the public meeting webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with

section 336 of EPCA. (42 U.S.C. 6306) A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed rulemaking, until the end of the comment period.

The public meeting webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting webinar will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this notification of proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES**

section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your

contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed rule. DOE is particularly interested in receiving comments and views of interested parties concerning whether rescinding the amended water use standards is supported by the statute.

DOE is also interested in receiving views concerning other relevant issues that participants believe would affect the tentative conclusions presented in this document.

After the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it may prepare a final rule rescinding amended water standards for ACIMs.

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking; request for comments.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That

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

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE is proposing to amend part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Amend § 431.136 by revising paragraphs (b), (c), and (d) to read as follows:

§ 431.136 Energy conservation standards and their effective dates.

* * * * *

(b) Each cube type automatic commercial ice maker with capacities between 50 and 2,500 pounds per 24-hour period manufactured on or after January 1, 2010 shall meet the following standard levels:

Equipment type	Type of cooling	Harvest rate (lb ice/24 hours)	Maximum energy use (kWh/100 lb ice)	Maximum condenser water use ¹ (gal/100 lb ice)
Ice-Making Head	Water	<500	7.8–0.0055H ²	200–0.022H.
Ice-Making Head	Water	≥500 and <1,436	5.58–0.0011H	200–0.022H.
Ice-Making Head	Water	≥1,436	4.0	200–0.022H.
Ice-Making Head	Air	<450	10.26–0.0086H	Not Applicable.
Ice-Making Head	Air	≥450	6.89–0.0011H	Not Applicable.
Remote Condensing (but not remote compressor)	Air	<1,000	8.85–0.0038H	Not Applicable.
Remote Condensing (but not remote compressor)	Air	≥1,000	5.1	Not Applicable.
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not Applicable.
Remote Condensing (but not remote compressor)	Air	≥934	5.3	Not Applicable.
Self-Contained	Water	<200	11.40–0.019H	191–0.0315H.
Self-Contained	Water	≥200	7.6	191–0.0315H.
Self-Contained	Air	<175	18.0–0.0469H	Not Applicable.
Self-Contained	Air	≥175	9.8	Not Applicable.

¹ Water use is for the condenser only and does not include potable water used to make ice.

² H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate.

(c) Each batch type automatic commercial ice maker with capacities

between 50 and 4,000 pounds per 24-hour period manufactured on or after

January 28, 2018, shall meet the following standard levels:

Equipment type	Type of cooling	Harvest rate (lb ice/24 hours)	Maximum energy use kilowatt-hours (kWh)/100 lb ice ¹
Ice-Making Head	Water	<300	6.88–0.0055H.
Ice-Making Head	Water	≥300 and <850	5.80–0.00191H.
Ice-Making Head	Water	≥850 and <1,500	4.42–0.00028H.
Ice-Making Head	Water	≥1,500 and <2,500	4.0.
Ice-Making Head	Water	≥2,500 and <4,000	4.0.
Ice-Making Head	Air	<300	10–0.01233H.
Ice-Making Head	Air	≥300 and <800	7.05–0.0025H.
Ice-Making Head	Air	≥800 and <1,500	5.55–0.00063H.
Ice-Making Head	Air	≥1,500 and <4,000	4.61.
Remote Condensing (but not remote compressor) ...	Air	<988	7.97–0.00342H.
Remote Condensing (but not remote compressor) ...	Air	≥988 and <4,000	4.59.
Remote Condensing and Remote Compressor	Air	<930	7.97–0.00342H.
Remote Condensing and Remote Compressor	Air	≥930 and <4,000	4.79.
Self-Contained	Water	<200	9.5–0.019H.
Self-Contained	Water	≥200 and <2,500	5.7
Self-Contained	Water	≥2,500 and <4,000	5.7.
Self-Contained	Air	<110	14.79–0.0469H.
Self-Contained	Air	≥110 and <200	12.42–0.02533H.
Self-Contained	Air	≥200 and <4,000	7.35.

¹ H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate. Source: 42 U.S.C. 6313(d).

(d) Each continuous type automatic commercial ice maker with capacities between 50 and 4,000 pounds per 24-hour period manufactured on or after January 28, 2018, shall meet the following standard levels:

Equipment type	Type of cooling	Harvest rate (lb ice/24 hours)	Maximum energy use (kWh/100 lb ice) ¹
Ice-Making Head	Water	<801	6.48–0.00267H.
Ice-Making Head	Water	≥801 and <2,500	4.34.
Ice-Making Head	Water	≥2,500 and <4,000	4.34.
Ice-Making Head	Air	<310	9.19–0.00629H.
Ice-Making Head	Air	≥310 and <820	8.23–0.0032H.
Ice-Making Head	Air	≥820 and <4,000	5.61.
Remote Condensing (but not remote compressor)	Air	<800	9.7–0.0058H.
Remote Condensing (but not remote compressor)	Air	≥800 and <4,000	5.06.
Remote Condensing and Remote Compressor	Air	<800	9.9–0.0058H.
Remote Condensing and Remote Compressor	Air	≥800 and <4,000	5.26.
Self-Contained	Water	<900	7.6–0.00302H.
Self-Contained	Water	≥900 and <2,500	4.88.
Self-Contained	Water	≥2,500 and <4,000	4.88.
Self-Contained	Air	<200	14.22–0.03H.
Self-Contained	Air	≥200 and <700	9.47–0.00624H.
Self-Contained	Air	≥700 and <4,000	5.1.

¹ H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate. Source: 42 U.S.C. 6313(d).

[FR Doc. 2025–08576 Filed 5–12–25; 9:30 am]

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DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2025–BT–STD–0018]

RIN 1904–AF88

Energy Conservation Program: Rescinding the Amended Water Conservation Standards for Commercial Clothes Washers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: DOE is proposing to repeal the amended water conservation standards for commercial clothes washers. This will return the standards for commercial clothes washers to the statutory baseline.

DATES: Comments must be received on or before July 15, 2025. DOE will hold a webinar on Thursday, May 29, 2025, from 1:00 p.m. to 4:00 p.m. See section III, “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0018.

Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0018, by any of the following methods:

(1) *Email:* ComClothesWashers2025STD0018@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0018 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121.

Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier*: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0018. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section, “Public Participation,” for further information on how to submit comments through www.regulations.gov. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act

- C. Review Under the Paperwork Reduction Act
- D. Review Under the National Environmental Policy Act of 1969
- E. Review Under Executive Order 13132
- F. Review Under Executive Order 12988
- G. Review Under the Unfunded Mandates Reform Act
- H. Review Under the Treasury and General Government Appropriations Act, 1999
- I. Review Under Executive Order 12630
- J. Review Under the Treasury and General Government Appropriations Act, 2001
- K. Review Under Executive Order 13211
- L. Review Under the Information Quality Bulletin for Peer Review
- M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Attendance at the Public Meeting/ Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Public Meeting/Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

DOE is proposing to rescind the amended water conservation standards for commercial clothes washers, codified in 10 CFR 431.156. Congress required each “commercial clothes washer manufactured on or after January 1, 2007” to have “a Modified Energy Factor of at least 1.26” and “a Water Factor of not more than 9.5.” 42 U.S.C. 6313(e). DOE, by regulation, has set more stringent requirements. Each “commercial clothes washer manufactured on or after January 8, 2013, and before January 1, 2018,” must have a modified energy factor no less than 1.6 (for top-loading washers) and 2.0 (for front-loading washers), and a water factor no greater than 8.5 (for top-loading washers) and 5.5 (for front-loading washers).

DOE proposes to rescind the water factor requirements in their entirety and seeks comment on all aspects of that proposal. The rescission will return the water use requirements to the statutory standard in section 6313(e). The Secretary has determined that the anti-backsliding provision in section 6313(a)(6)(B)(iii) does not apply to the water use requirements for commercial washers. That Section states the “Secretary may not prescribe any amended standard under this paragraph that increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. 42 U.S.C. 6313(a)(6)(B)(iii) (emphasis added). “Energy efficiency” is defined as “the ratio of the useful output of services from an article of industrial equipment to the energy use by such article.” 42 U.S.C. 6311(3). “Energy use” is defined “the quantity of

energy directly consumed by an article of industrial equipment at the point of use.” 42 U.S.C. 6311(4). Water use has nothing to do with the energy consumed by a clothes washer. Therefore, the anti-backsliding provision does not apply.

After reconsidering the water use standards for commercial clothes washers, the Secretary has tentatively determined that DOE lacks authority to regulate the water use of commercial clothes washers. Section 6313(a)(6) is titled “[a]mended energy efficiency standards.” The statute does not seem to contemplate that DOE will change the water use requirements—only the energy requirements. Therefore, the standards to be amended in section 6313 refer only to energy standards.

Regardless, the DOE has determined that it is economically justified to revert back to the statutory standard. Among other factors, the regulatory water use restrictions appear to lessen the utility of clothes washers by lengthening the time it takes to wash clothes. See 85 FR 68727. And the regulations are not consistent with the need for national water conservation. Consumers are best situated to decide whether a given product is economically justified, as that is precisely what the free market does best.

The Secretary is proposing a new policy to reduce regulatory burden wherever possible. Unless a regulatory standard is required by statute, the Secretary proposes eliminating that regulatory standard. DOE’s new policy would support energy and water abundance, allowing Americans to produce and consume as much energy and water as they see fit.

DOE has tentatively determined that there is no reliance interest in the water use standards. These proposed rule rescissions are not designed to achieve a maximum reduction in energy efficiency because the Secretary has tentatively determined that the current regulations are unlawful, that they are not economically justified, and that they are inconsistent with the policy of maximally reducing regulatory burdens. See 42 U.S.C. 6295(p)(1). These are the same reasons that DOE is considering the change of position that is contemplated by this rule. DOE seeks comments on any reason to rescind or not rescind these regulations. DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates standards. Therefore, DOE initially concludes that the impacts of the proposed rule rescission would not have a “significant economic impact on a substantial number of small entities,”

and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rule rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The Energy Policy

and Conservation Act of 1975 (EPCA; Pub. L. 94–163) governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule rescission. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year

(adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note)

provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed rule rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by

qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule rescission, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and

information about the capabilities available to webinar participants will be published on DOE's website:

www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines.

Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will

allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names,

organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail.

Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating

organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.
Jennifer Hartzell,
Alternate Federal Register Liaison Officer,
U.S. Department of Energy.

For the reasons set forth in the preamble, DOE proposing to amend part

431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Revise § 431.156 to read as follows:

§ 431.156 Energy and water conservation standards and effective dates.

(a) Each commercial clothes washer manufactured on or after January 8, 2013, and before January 1, 2018, shall have a modified energy factor no less than:

Equipment class	Modified energy factor (MEF), cu. ft./kWh/cycle
Top-Loading	1.60
Front-Loading	2.00

(b) Each commercial clothes washer manufactured on or after January 1, 2018 shall have a modified energy factor no less than:

Equipment class	Modified energy factor (MEF _{J2}), cu. ft./kWh/cycle
Top-Loading	1.35
Front-Loading	2.00

[FR Doc. 2025–08599 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2025–BT–DET–0020]

RIN 1904–AF90

Energy Conservation Program: Proposed Withdrawal of Determination of Fans and Blowers as Covered Equipment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: DOE is proposing to withdraw its classification of certain fans and blowers as covered equipment under Part A–1 of Title III of the Energy Policy and Conservation Act (EPCA), as amended.

DATES: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a webinar on Thursday, May 29, 2025, from 1 p.m. to 4 p.m. See section III, "Public Participation," for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–DET–0020. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–DET–0020, by any of the following methods:

(1) **Email:**

FansBlowers2025DET0020@ee.doe.gov. Include the docket number EERE–2025–BT–DET–0020 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) **Postal Mail:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc ("CD"), in which case it is not necessary to include printed copies.

(3) **Hand Delivery/Courier:** Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles ("faxes") will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index.

However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-

2025-BT-DET-0020. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section III, “Public Participation,” for further information on how to submit comments through www.regulations.gov. In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at www.regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in the Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Webinar
 - D. Submission of Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. 42 U.S.C. 6291–6317. Title III, Part C. of EPCA, added by Public Law 95–619, title IV, section 441(a) (42 U.S.C. 6311–6317, as codified), established the Energy

Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency of certain commercial and industrial equipment (hereafter referred to as “covered equipment”). The purpose of Part A–1 is to improve the efficiency of electric motors and pumps and certain other industrial equipment in order to conserve the energy resources of the Nation. 42 U.S.C. 6312(a).

EPCA specifies a list of equipment that constitutes covered equipment. EPCA also provides that “covered equipment” includes any other type of industrial equipment for which the Secretary of Energy (“Secretary”) determines inclusion is necessary to carry out the purpose of Part A–1. 42 U.S.C. 6311(1)(L); 42 U.S.C. 6312(b). On August 19, 2021, DOE made a final determination to classify fans and blowers as “covered equipment.” 86 FR 46579.

DOE is proposing to rescind that determination and seeks comments on any aspect of that proposal. DOE has tentatively determined that coverage of fans and blowers is unnecessary to carry out the purposes of Part A–1. For the reasons many commentators raised in the initial determination, DOE has tentatively changed its position, and no longer believes that classification of fans and blowers as covered equipment will conserve energy to any degree that is necessary “in order to conserve the energy resources of the Nation.” See 42 U.S.C. 6312(a).

Additionally, and independently, DOE is proposing a policy to classify products as industrial equipment only if energy conservation standards will generate a significant impact on the energy resources of the nation, without compromising the performance of the products. DOE has tentatively determined that the classification of fans and blowers does not meet that standard. DOE is seeking comment on this proposal, including the previous classifications consistent with statutory authority and the U.S. Constitution, its costs and benefits, and its impact on small businesses and innovation.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; (2) tailor regulations to impose the

least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed rescission was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed withdrawal under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates standards. Therefore, DOE initially concludes that the impacts of the proposed withdrawal of determination would not have a “significant economic impact on a substantial number of small entities,”

and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed withdrawal imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed withdrawal of determination and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and

prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed withdrawal of determination. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency

to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed withdrawal would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to

the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed withdrawal under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed withdrawal is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy ("OSTP"), issued its Final Information Quality Bulletin for Peer Review ("the Bulletin"). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal

Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are "influential scientific information," which the Bulletin defines as "scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions." 70 FR 2664, 2667. In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed withdrawal of determination and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 "Unleashing American Energy," E.O. 14192, "Unleashing Prosperity Through Deregulation," and Presidential Memorandum, "Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis." This proposed withdrawal of determination, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be

published on DOE's website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this proposed rule, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other

participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modifications of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov: The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence

containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the *Confidential Business Information* section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail:

Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters: Please submit campaign form letters by the originating organization in batches of between 50 to

500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information: Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Industrial equipment, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary, U.S. Department of Energy. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE is proposing to amend part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

Subpart J [Removed and Reserved]

■ 2. Remove and reserve subpart J, consisting of §§ 431.171 through 431.174.

[FR Doc. 2025–08556 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2025–BT–STD–0008]

RIN 1904–AF78

Energy Conservation Program: Energy Conservation Standards for Commercial Prerinse Spray Valves

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: DOE is proposing to rescind the amended water use standards for commercial prerinse spray valves (“CPSVs”). This proposal will return the water use standards for CPSVs to the statutory baseline.

DATES:

Comments: Comments must be received on or before July 15, 2025.

Meeting: DOE will hold a meeting via a webinar on Thursday, May 29, 2025, from 1 p.m. to 4 p.m. See section III of this document, “Public Participation,” for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–BT–STD–0008. Follow the instructions for submitting

comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2025–BT–STD–0008, by any of the following methods:

(1) *Email:* CPSV2025STD0008@ee.doe.gov. Include the docket number EERE–2025–BT–STD–0008 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this proposed rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if one is held), comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0008. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section III of this document, “Public Participation,” for further information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: David.Taggart@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under the Information Quality Bulletin for Peer Review
 - M. Review Under Additional Executive Orders and Presidential Memoranda
- III. Public Participation
 - A. Participation in the Webinar
 - B. Procedure for Submitting Prepared General Statements for Distribution
 - C. Conduct of the Webinar
 - D. Submission of Comments
 - E. Issues on Which DOE Seeks Comments
- IV. Approval of the Office of the Secretary

I. General Discussion

The Energy Policy and Conservation Act, Public Law 94–163, as amended (“EPCA”), authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B¹ of EPCA, established the Energy Conservation Program for Consumer Products. (42 U.S.C. 6291–6309) This includes CPSV equipment, the subject of this proposed rulemaking.²

Pursuant to this authority, DOE is proposing to rescind the amended water conservation standards for CPSVs,

¹ For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

² Because Congress included commercial prerinse spray valves in Part B of Title III of EPCA, the consumer product provisions of Part B (not the industrial equipment provisions of Part C) apply to CPSVs. However, because CPSVs are commonly considered to be commercial equipment, as a matter of administrative convenience and to minimize confusion among interested parties, DOE placed the requirements for CPSVs into subpart O of 10 CFR part 431. Part 431 contains DOE regulations for commercial and industrial equipment. DOE refers to CPSVs as either “products” or “equipment.”

which are codified at title 10 of the Code of Federal Regulations (“CFR”) Section 431.266. Congress initially required CPSVs, manufactured on or after January 1, 2006, to have a flow rate of not more than 1.6 gallons per minute (“gpm”). 42 U.S.C. 6295(dd). DOE subsequently amended those water conservation standards to be more stringent, requiring CPSVs less than or equal to 5 spray force in ounce (“ozf”) to have a flow rate not more than 1 gpm, CPSVs greater than 5 ozf to have a flow rate no more than 1.2 gpm, and CPSVs greater than 8 ozf to have a flow rate no more than 1.28 gpm. 10 CFR 431.266(b).

DOE proposes to rescind the amended water flow rate requirements in their entirety and seeks comment on all aspects of that proposal. The rescission will return the water use requirements to the statutory standard in 42 U.S.C. 6295(dd). The Secretary has tentatively determined that the anti-backsliding provision in 42 U.S.C. 6295(o)(1) does not apply because Section (o)(1) only applies to water use “in the case of showerheads, faucets, water closets, or urinals.”

Additionally, DOE appears to lack authority to regulate the water use of CPSVs entirely. Part A of EPCA defines “energy conservation standard” as “a performance standard which prescribes a minimum level of energy efficiency or a maximum quantity of energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use.” 42 U.S.C. 6291(6)(A). EPCA further defines “water use” as “the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use.” 42 U.S.C. 6291(31)(A); *see also* 42 U.S.C. 6293(b)(3) (dividing energy use and water use for test procedures). A commercial prerinse spray valve is not a showerhead, faucet, water closet, or urinal. Therefore, EPCA does not seem to contemplate DOE regulating the water use of CSPVs.

Regardless, withdrawal of these standards is consistent with the Secretary’s proposed policy of reducing regulatory burdens wherever possible. Unless a regulatory standard is required by statute, the Secretary proposes eliminating that requirement. This new policy would support energy and water abundance, allowing Americans to produce and consume as much energy and water as they see fit.

The proposed withdrawal is also consistent with classifying industrial equipment as covered equipment only if energy conservation standards will significantly increase the energy resources of the nation, without compromising the performance of industrial products. DOE has tentatively

determined that the water use requirements of CSPVs does not meet that standard.

DOE has tentatively determined that there is no reliance interest in the CPSV’s water use standards. These proposed rescissions are not designed to achieve a maximum reduction in energy efficiency because the Secretary has tentatively determined that the current regulations are unlawful, that they are not economically justified, and that they are inconsistent with the policy of maximally reducing regulatory burdens. (*See* 42 U.S.C. 6295(p)(1)). DOE seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

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

B. Review Under Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions).

DOE reviewed this proposed rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal

eliminates amended water conservation standards. Therefore, DOE initially concludes that the impacts of the proposed rules would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rulemaking imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. *See* 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in

the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”),

issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.³ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.⁴

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.”

³ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed July 1, 2022).

⁴ The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

This proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

III. Public Participation

A. Participation in the Webinar

The time, date, and location of the webinar listed in the **DATES** and **ADDRESSES** sections at the beginning of this document.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website: www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines.

Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPR, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the webinar and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed withdrawal of coverage, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the webinar.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this notification of proposed determination no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE

cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to www.regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (“CBI”). Comments submitted through www.regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through www.regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that www.regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured,

that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters’ names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed rule. DOE is particularly interested in receiving comments and views of interested parties concerning whether rescinding the amended water use standards is supported by the statute.

DOE is also interested in receiving views concerning other relevant issues that participants believe would affect the tentative conclusions presented in this document.

After the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it may prepare a final rule rescinding amended water standards for CPSVs.

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Industrial equipment, Imports, Incorporation by Reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.
Treena V. Garrett,
*Federal Register Liaison Officer, U.S.
Department of Energy.*

For the reasons set forth in the preamble, DOE is proposing to amend part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§ 431.266 [Amended]

■ 2. Amend § 431.266 by removing subparagraph (b).

[FR Doc. 2025–08574 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 451

[EERE–2025–OT–0037]

RIN 1904–AF76

Renewable Energy Production Incentives

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The U.S. Department of Energy is proposing to rescind the Renewable Energy Production Incentives program regulations at the end of fiscal year 2026. DOE's proposal is intended to parallel the program's statutory sunset date. The Department seeks comments on any reason to rescind or not rescind these regulations.

DATES: Comments must be received on or before June 16, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE-2025-OT-0037.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Other Executive Orders
- III. Approval of the Office of the Secretary

I. General Discussion

In preparation for the approaching sunset date for the Renewable Energy Production Incentives (REPI) program, the U.S. Department of Energy (DOE) is proposing to rescind the program's regulations at title 10 of the Code of Federal Regulations (CFR) part 451. DOE seeks comments on any reason to rescind or not rescind these regulations. The final rule will be effective at the end of the fiscal year 2026.

Section 1212 of the Energy Policy Act of 1992 (Pub. L. 102-486) established the REPI program to encourage production of electric energy from facilities owned by a State, a political subdivision of a State, or a non-profit electric cooperative using certain

renewable energy resources.¹ In response, DOE implemented a renewable energy production incentive program following the statute's requirements through a final rule in 1995, which established the regulations at 10 CFR 451. That rule contained initial procedures for application, qualification requirements, procedures for calculation of incentive payments, and administrative remedies. The rule also included the a "duration of incentive payments" provision that codified the statute's sunset requirement. 60 FR 36959 (July 19, 1995); 42 U.S.C. 13317(f). The REPI program's authorization was later modified through section 202 of the Energy Policy Act of 2005 (Pub. L. 109-58),² and DOE issued a final rule incorporating those modifications into 10 CFR 451 in 2006, which extended the period for incentive payments to fiscal year 2026. 71 FR 46383 (Aug. 14, 2006). More recently, the program's authorization underwent minor revisions through section 3006(c) of the Energy Act of 2020 (Pub. L. 116-260). DOE did not undertake a rulemaking to amend 10 CFR 451 in response to the textual revisions adopted in 2020 and the fiscal year 2026 sunset remained.

Through this proposed rule, DOE is providing stakeholders with advanced notice of the Department's intent to rescind 10 CFR 451 at the close of fiscal year 2026 because the regulations will then be obsolete. DOE welcomes all comments on this activity and specifically, whether the Department should retain 10 CFR 451 in the event that Congress amends the program's authority by extending the duration of payment period and appropriating additional funds after FY 2026.

II. Procedural Issues and Regulatory Review

A. Executive Order 12866

Executive Order (E.O.) 12866, "Regulatory Planning and Review," requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to

the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates 10 CFR part 451 in response to the conclusion of the relevant program and no additional payments will be made after the end of fiscal year 2026. Therefore, DOE initially concludes that the impacts of the proposed rule would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of fact to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

¹ Codified at 42 U.S.C. 13317.

² Note, 42 U.S.C. 13317(f), as amended, states that "[n]o payment may be made under this section to any facility after September 30, 2026, and no payment may be made under this section to any facility after a payment has been made with respect to such facility for a 10-fiscal year period."

C. Review Under the Paperwork Reduction Act

This proposed rule imposes no new information or record-keeping requirements. Accordingly, the OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with National Environmental Policy Act of 1969, as amended, (NEPA) and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final determination.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to

adhere to the following requirements:

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a

statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rescission under the OMB and DOE

guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and request for comment.

List of Subjects in 10 CFR Part 451

Building and facilities, Electric utilities, Energy conservation, Grant programs—energy, Income taxes, and Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.
Jennifer Hartzell,
Alternate Federal Register Liaison Officer,
U.S. Department of Energy.

PART 451—[REMOVED]

■ For the reasons set forth in the preamble, under the authority of 42 U.S.C. 7101, *et seq.*; 42 U.S.C. 13317, DOE is proposing to remove part 451 of subchapter D of chapter II of title 10 of the Code of Federal Regulations.

[FR Doc. 2025–08569 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 452

[Docket No. EERE–2025–OT–0031]

RIN 1904–AG07

Rescinding the Production Incentives for Cellulosic Biofuels

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: The U.S. Department of Energy (DOE or Department) is proposing to rescind the Production Incentives for Cellulosic Biofuels regulations. The Department seeks comments on any reason to rescind or not rescind these regulations.

DATES: Comments must be received on or before June 16, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2025–OT–0031.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel,

GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121.
Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. General Discussion

The U.S. Department of Energy is proposing to rescind the outdated regulations at 10 CFR part 452, Production Incentives for Cellulosic Biofuels. DOE seeks comments on any reason to rescind or not rescind these regulations. Specifically, DOE seeks comments on the relevancy of 10 CFR part 452 and whether DOE should retain these regulations in case funding is appropriated again to the relevant authority, section 942 of the Energy Policy Act of 2005 (Pub. L. 109–58), codified at 42 U.S.C. 16251, for this activity.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at www.regulations.gov.

II. Procedural Issues and Regulatory Review

A. Executive Orders 12866

Executive Order (E.O.) 12866, “Regulatory Planning and Review,” 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles. Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action constitutes a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed action was

submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal rescinds 10 CFR part 452. Therefore, DOE tentatively concludes that the impacts of the proposed rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule and welcomes comment on the

potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

Section 654 of the Treasury and General Government Appropriations

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf. DOE has reviewed this proposed rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of

OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the

process of evaluating the resulting report.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rescission, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comments.

List of Subjects in 10 CFR Part 452

Fuel, Grant programs, Recordkeeping and reporting requirements, Renewable energy.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

PART 452—[REMOVED]

■ For the reasons set forth in the preamble, under the authority of 42 U.S.C. 7101 *et seq.*, 42 U.S.C. 16251, DOE is proposing to remove part 452 of chapter II of title 10 of the Code of Federal Regulations.

[FR Doc. 2025–08572 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY**10 CFR Part 455**

[DOE-HQ-2025-0022]

RIN 1930-AA02

Rescinding the Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions Regulations

AGENCY: Office of the State and Community Energy Programs, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: The U.S. Department of Energy is proposing to rescind the Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions regulations. The Department seeks comments on any reason to rescind or not rescind these regulations.

DATES: *Comments:* Written comments, data, and information must be received no later than June 16, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE-HQ-2025-0022. Follow the instructions for submitting comments. The docket for this notice of proposed rulemaking, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0022. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at www.regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:**I. General Discussion**

The U.S. Department of Energy (DOE or Department) is proposing to rescind

the regulations at 10 CFR part 455, Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions.

Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6371 *et seq.*, authorized DOE's prior Institutional Conservation Program (ICP) to adopt the regulations at issue in this notice. The ICP provided grants to various institutions to fund detailed energy audits, called technical assistance programs, and energy conservation measures. 58 FR 9424, 9424 (Feb. 19, 1993). In 1996, DOE's State Energy Program was established by consolidating two existing programs, the ICP and the State Energy Conservation Program (SECP), to provide formula grants going forward. In July of that same year, DOE amended the regulations for SECP to support the newly formulated SEP. 61 FR 35890 (July 8, 1996). While DOE did not eliminate ICP's regulations at 10 CFR part 455 during that rulemaking, DOE did direct states wishing to undertake activities previously administered through ICP to apply to SEP using the newly amended regulations at 10 CFR part 420. The final rule explained that ICP's regulations, 10 CFR part 455, would not apply to SEP issued grants but that States were "free to adopt any of the requirements in those regulations to cover ICP-type activities under SEP." 61 FR 35890, 35890.

Now, many decades later, ICP's regulations remain in place even though it is unclear if those regulations are still in use. DOE is now proposing to rescind the regulations at 10 CFR part 455 and seeks comments on any reason to rescind or not rescind these regulations. Specifically, DOE seeks comments on the relevancy of 10 CFR part 455 and whether SEP's regulations, 10 CFR part 420, are sufficient for any related future activity.

II. Procedural Issues and Regulatory Review**A. Review Under Executive Order 12866**

Executive Order (E.O.) 12866, "Regulatory Planning and Review," requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in

choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates unused regulations. Therefore, DOE initially concludes that the impacts of the proposed rescission would not have a "significant economic impact on a substantial number of small entities," and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996).

Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this proposed rescission according to UMRA and its

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66

FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rescission, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking; request for comment.

List of Subjects in 10 CFR Part 455

Administrative practice and procedure, Buildings and facilities, Community facilities, Energy conservation, Grant programs—energy, Health facilities, Hospitals, Reporting and recordkeeping requirements, Schools, Solar energy, and Technical assistance.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That

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

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

PART 455—[REMOVED]

■ For the reasons set forth in the preamble, under the authority of 42 U.S.C. 6371 *et seq.*, and 42 U.S.C. 7101 *et seq.*, DOE is proposing to remove part 455 of subchapter D of chapter II of title 10 of the Code of Federal Regulations.

[FR Doc. 2025–08590 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 1022

[DOE–HQ–2025–0020]

RIN 1901–AB70

Compliance With Floodplain and Wetland Environmental Review Requirements

AGENCY: Office of NEPA Policy and Compliance, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: The U.S. Department of Energy (DOE) is proposing to rescind certain regulations for compliance with floodplain and wetlands environmental review requirements. The Department seeks comments on any reason to rescind or not rescind these regulations. DOE expects to issue new procedures for discharging DOE’s responsibilities under certain Executive orders published outside of the Code of Federal Regulations.

DATES: *Comments:* Written comments, data, and information must be received no later than July 15, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE–HQ–2025–0020. Follow the instructions for submitting

comments. The docket for this notice of proposed rulemaking, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0020. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at www.regulations.gov, under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. General Discussion

The U.S. Department of Energy (DOE) established the floodplain and wetland environmental review requirements at 10 CFR part 1022 in compliance with Executive Order (E.O.) 11988—Floodplain Management, and E.O. 11990—Protection of Wetlands through a final rule in 1979. 44 FR 12594 (March 7, 1979). E.O. 11988 directs each Federal agency to issue or amend existing regulations and procedures to ensure that the potential effects of any action it may take in a floodplain are evaluated and that its planning programs and budget requests reflect consideration of flood hazards and floodplain management. E.O. 11990 directs all Federal agencies to issue or amend existing procedures to ensure consideration of wetlands protection in decision making and to ensure the evaluation of the potential impacts of any new construction proposed in a wetland. DOE’s floodplain and wetland environmental review requirements were later amended in 2003. 68 FR 51429 (Aug. 27, 2003). DOE is now proposing to rescind the regulations at 10 CFR part 1022 in full. The Department seeks comments on any reason to rescind or not rescind these regulations.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposed rule would rescind requirements. Therefore, DOE initially concludes that the impacts of the

proposed rule would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rule imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to

develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and

DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,”; E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized, is expected to be an Executive Order 14192 deregulatory action.

III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking; request for comment.

List of Subjects in 10 CFR Part 1022

Flood plains.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

PART 1022—[REMOVED]

■ For the reasons set forth in the preamble, under the authority of 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; E.O. 11988, 42 FR 26951, 3 CFR Comp., p. 117; E.O. 11990, 42 FR 26961, 3 CFR, 1977 Comp., p. 121; E.O. 12372, 47 FR 30959, 3 CFR, 1982 Comp., p. 197, DOE is proposing to remove part 1022 of chapter X of title 10 of the Code of Federal Regulations.

[FR Doc. 2025–08586 Filed 5–12–25; 9:30 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 1040

[DOE–HQ–2025–0023]

RIN 1903–AA21

Rescinding Regulations Related to Nondiscrimination in Federally Assisted Programs or Activities (Nondiscrimination on the Basis of Age)

AGENCY: Office of Minority Economic Impact, Department of Energy (DOE).

ACTION: Proposed rule; request for comments.

SUMMARY: DOE is proposing to rescind certain regulatory provisions related to nondiscrimination based on age in federally assisted programs or activities.

DATES: Comments must be received on or before July 15, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE-HQ-2025-0023. Follow the instructions for submitting comments. The docket for this proposed rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at www.regulations.gov/docket/DOE-HQ-2025-0023. The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Discussion
- II. Procedural Issues and Regulatory Review
 - A. Review Under Executive Orders 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act of 1969
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 12630
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under Executive Order 13211
 - L. Review Under Additional Executive Orders and Presidential Memoranda
- III. Approval of the Secretary

I. General Discussion

DOE is proposing to rescind certain provisions from its regulations found in subpart E (“Nondiscrimination on the Basis of Age”) to part 1040 of chapter X of title 10 of the Code of Federal Regulations (CFR) (“Nondiscrimination in Federally Assisted Programs or Activities”). Specifically, DOE is rescinding subparagraphs (b) through (c) of 10 CFR 1040.88, “Remedial and

affirmative action by recipients.” Upon further evaluation, and for the reasons explained subsequently, DOE has determined these provisions to be unnecessary.

Under 10 CFR 1040.88(a), if the Director of DOE’s Office of Equal Opportunity finds that a recipient of financial assistance has discriminated against persons on the basis of age, the recipient shall take such remedial action as the Director considers necessary to overcome the effects of discrimination. This provision can be distinguished from 10 CFR 1040.88(b), which suggests financial assistance recipients may take other affirmative actions, even in the absence of any finding of discrimination. “Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient’s program or activity on the basis of age.” 10 CFR 1040.88(b). This provision contains no substantive right or obligation but rather grants permission for a recipient to take action in the absence of a finding of discrimination. Accordingly, DOE finds this provision to be unnecessary. 10 CFR 1040.88(c) clarifies the conditions under which a recipient operating a program or activity shall be presumed to be providing voluntary affirmative action. 10 CFR 1040.88(c) states, “If a recipient operating a program or activity which serves the elderly or children, in addition to persons of other ages, provides special benefits to the elderly or to children, the provision of those benefits shall be presumed to be voluntary affirmative action provided that it does not have the effect of excluding otherwise eligible persons from participation in the program or activity.” 10 CFR 1040.88(c). Given the general prohibition on age-related discriminatory activities and related penalties, DOE finds these additional provisions unnecessary. DOE finds no reason to suggest additional actions associated with the provisions under 10 CFR 1040.88(b) in the absence of any improper action or attempt to provide unnecessary “clarification” of age based “voluntary affirmative action” under 10 CFR 1040.88(c). Accordingly, DOE finds good reason to eliminate these regulatory provisions. DOE seeks all comments.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Executive Order (E.O.) 12866, “Regulatory Planning and Review,”

requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed rulemaking action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed rule rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates provisions in regulations that are unnecessary and create no substantive right or obligation.

Therefore, DOE initially concludes that the impacts of the proposed rule rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed rule rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (NEPA), DOE is analyzing this proposed rule rescission in accordance with NEPA and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion for rulemakings that are strictly procedural. *See* 10 CFR part 1021, subpart D, appendix A6. DOE anticipates that this rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking and otherwise meets the requirements for application of a categorical exclusion. *See* 10 CFR 1021.410.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rule rescission and has tentatively determined that it would not have a

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

F. Review Under Executive Order 12988

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

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

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national

economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rule rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by

OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/departments-energy-information-quality-guideline>. DOE has reviewed this proposed rule rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed rule rescission is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this rescission and has tentatively determined that it is consistent with the policies and directives outlined in Executive Order 14192, "Unleashing Prosperity Through Deregulation." This rescission is expected to be an Executive Order 14192 deregulatory action.

III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule; request for comment.

List of Subjects in 10 CFR Part 1040

Age, Civil rights, Equal employment opportunity, Individuals with disabilities, Sex discrimination.

Signing Authority

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary, Department of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 9, 2025.

Jennifer Hartzell,

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

For the reasons set forth in the preamble, DOE proposes to amend part 1040 of chapter X of title 10 of the Code of Federal Regulations, as set forth below:

PART 1040—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES

■ 1. The authority citation for subpart E of part 1040 continues to read as follows:

Authority: Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*); 45 CFR part 90.

§ 1040.88 [Amended]

■ 2. Amend § 1040.88, by removing and reserving paragraphs (b) and (c).

[FR Doc. 2025-08595 Filed 5-12-25; 9:30 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2025-0758; Project Identifier MCAI-2024-00651-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 supersede Airworthiness Directive (AD) 2022-15-05, which applies to certain Airbus SAS Model A318 series airplanes; Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; Model A320-211, -212, -214, -216, -231, -232, and -233 airplanes; and Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes. AD 2022-15-05 requires repetitive high frequency eddy current (HFEC) inspections for cracks on the web horizontal flange and inner cap, and applicable corrective actions. Since the FAA issued AD 2022-15-05, additional cracks have been found at the door stop fitting number 1 holes at frame (FR) 68, after disassembly of the door stop fitting as part of the inspections required by AD 2022-15-05. This proposed AD would continue to require the actions in AD 2022-15-05, but with reduced compliances times for some inspections, and would require an additional inspection at door stop fitting number 1, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. 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 June 30, 2025.

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

- **Federal eRulemaking Portal:** Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- **Fax:** 202-493-2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–0758; 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 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; website 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–2025–0758.

- 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:

Nathan Weigand, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3531; email: nathan.p.weigand@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 to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2025–0758; Project Identifier MCAI–2024–00651–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 Nathan Weigand, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3531; email: nathan.p.weigand@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

The FAA issued AD 2022–15–05, Amendment 39–22125 (87 FR 45013, July 27, 2022) (AD 2022–15–05), for all Airbus SAS Model A318–111, A318–112, A318–121, A318–122, A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A320–211, A320–212, A320–214, A320–216, A320–231, A320–232, A320–233, A321–111, A321–112, A321–131, A321–211, A321–212, A321–213, A321–231, and A321–232 airplanes, except those airplanes with certain modifications installed that convert the airplane to a corporate jet. AD 2022–15–05 was prompted by MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2022–0030, dated February 25, 2022 (EASA AD 2022–0030), to correct an unsafe condition identified as cracks on the web horizontal flange and inner cap on FR 68, left-hand (LH) and right-hand (RH) sides, at stringer (STGR) 22, which could result in reduced structural integrity of the fuselage.

AD 2022–15–05 requires repetitive HFEC inspections for cracks on the web horizontal flange and inner cap and applicable corrective actions in accordance with EASA AD 2022–0030, which specifies using the original or later-approved revisions of Airbus Service Bulletin A320–53–1491. The FAA issued AD 2022–15–05 to address a report that during the inspection for the door stop fitting holes at FR 66 and FR 68 required by EASA AD 2016–0238, dated December 2, 2016; corrected January 4, 2017 (which prompted FAA

AD 2018–03–12, Amendment 39–19185 (83 FR 5906, February 12, 2018)), cracks were found on the web horizontal flange and inner cap on FR 68, LH and RH sides, at STGR 22.

Actions Since AD 2022–15–05 Was Issued

Since the FAA issued AD 2022–15–05, EASA superseded EASA AD 2022–0030, dated February 25, 2022, and issued EASA AD 2024–0210, dated October 29, 2024 (EASA AD 2024–0210) (also referred to as “the MCAI”), for all Airbus SAS Model A318–111, A318–112, A318–121, A318–122, A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A320–211, A320–212, A320–214, A320–215, A320–216, A320–231, A320–232, A320–233, A321–111, A321–112, A321–131, A321–211, A321–212, A321–213, A321–231, and A321–232 airplanes, except those airplanes with certain modifications installed that convert the airplane to a corporate jet. The MCAI states that after EASA AD 2022–0030 was issued, cracks have been found at the door stop fitting number 1 holes at FR 68, after the door stop fitting disassembly as part of the inspections in Airbus Service Bulletin A320–53–1491 Revision 1. Therefore, Airbus issued revision 2 of its service bulletin to include an additional inspection of the FR 68 door stop fitting number 1 holes with a larger inspection area, and an additional HFEC inspection on FR68 around the door stop fitting number 1 nuts. Some compliance times have been reduced and the procedures in the service bulletin have been updated.

The FAA is proposing this AD to address cracks on the door stop 1, web horizontal flange and inner cap on FR 68, LH and RH sides, at STGR 22, which could result in reduced structural integrity of the fuselage. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–0758.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0210 specifies procedures for repetitive inspections of certain areas of the fuselage and taking corrective actions if there are cracks or discrepancies by following the manufacturer’s service information. EASA AD 2024–0210 also specifies reporting all inspection findings to Airbus. Specifically, the inspections are high frequency eddy current inspections of the frame horizontal flange radii, inner cap fillet radius, the door stop 1 fasteners, and the frame inner cap corner at FR 68. The instructions for the inspections depend on whether a repair

part has been installed. On-condition corrective actions include additional inspections for cracking, inspections to determine if a certain modification or repair was done, and repair of cracking at the web horizontal flange. 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

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it 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 retain all the requirements of AD 2022–15–05, with reduced compliance times for some actions, additional inspections, and updated procedures and figures.

This proposed AD would require accomplishing the actions specified in EASA AD 2024–0210 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD. See “Differences Between This NPRM and the MCAI” for a discussion of these differences.

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 2024–0210 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2024–0210 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 2024–0210 does not mean

that operators need to 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 2024–0210. Material required by EASA AD 2024–0210 for compliance will be available at *regulations.gov* under Docket No. FAA–2025–0758 after the FAA final rule is published.

Differences Between This NPRM and the MCAI

Where the MCAI specifies reporting information to the manufacturer, this NPRM does not propose to require reporting. The FAA has determined that it does not need the data from the reports.

Although the MCAI applies to Model A320–215 airplanes, this proposed AD would not because that model does not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,924 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection for repair part High frequency eddy current inspection.	1 work-hour × \$85 per hour = \$85 27 work-hours × \$85 per hour = \$2,295 per inspection cycle.	\$0 0	\$85 \$2,295 per inspection cycle.	\$163,540. \$4,415,580 per inspection cycle.

The FAA estimates the following costs to do any on-condition inspections that would be required based on the

results of the high frequency eddy current inspections. The FAA has no way of determining the number of

airplanes that might need these on-condition inspections:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Action	Labor cost	Parts cost	Cost per product
On-condition inspections	Up to 30 work-hours × \$85 per hour = \$2,550	\$0	Up to \$2,550.

The extent of cracking and other conditions found during the inspections could vary significantly from airplane to airplane. The FAA has no way of determining which conditions may be found on each airplane, the cost to correct or repair each airplane, or the number of airplanes that may require repair.

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:

- a. Removing Airworthiness Directive (AD) 2022–15–05, Amendment 39–22125 (87 FR 45013, July 27, 2022); and
- b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2025–0758; Project Identifier MCAI–2024–00651–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by June 30, 2025.

(b) Affected ADs

This AD replaces AD 2022–15–05, Amendment 39–22125 (87 FR 45013, July 27, 2022) (AD 2022–15–05).

(c) Applicability

This AD applies to Airbus SAS Model airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0210, dated October 29, 2024 (EASA AD 2024–0210).

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report that cracks were found on the web horizontal flange and inner cap on frame (FR) 68, left-hand (LH) and right-hand (RH) sides, at stringer (STGR) 22, and at the door stop fitting number 1 holes at FR 68. The FAA is issuing this AD to address the cracks on the door stop 1, web horizontal flange and inner cap on FR 68, LH and RH sides, at STGR 22. The unsafe condition, if not addressed, could result in reduced structural integrity of the fuselage.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0210.

(h) Exceptions to EASA AD 2024–0210

(1) Where EASA AD 2024–0210 refers to “22 November 2021 [the effective date of EASA AD 2021–0242]”, this AD requires using August 31, 2022 (the effective date of AD 2022–15–05).

(2) Where EASA AD 2024–0210 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where paragraph (1) of EASA AD 2024–0210 refers to “the SDI”, this AD requires replacing that text with “the applicable inspections”.

(4) This AD does not adopt the “Remarks” section of EASA AD 2024–0210.

(5) This AD does not adopt paragraphs (2) and (3) of EASA AD 2024–0210.

(6) Where paragraph (4) of EASA AD 2024–0210 states “discrepancies”, this AD requires replacing that word with “conditions”.

(7) Where paragraph (4) of EASA AD 2024–0210 states “within the compliance time specified therein”, this AD requires replacing that text with “before further flight”.

(8) Where paragraph (6) of EASA AD 2024–0210 specifies “the instructions provided by Airbus”, for this AD, those instructions must be approved by the FAA, EASA, or Airbus SAS’s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(i) No Reporting Requirement

Although paragraph (7) of and the material referenced in EASA AD 2024–0210 specify to submit certain information to the manufacturer, this AD does not include that requirement.

(j) 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 (k) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(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, 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 paragraphs (h), (i), and (j)(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.

(k) Additional Information

For more information about this AD, contact Nathan Weigand, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3531; email: nathan.p.weigand@faa.gov.

(l) 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 2024–0210, dated October 29, 2024.

(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; website 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 May 12, 2025.

Peter A. White,

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

[FR Doc. 2025–08664 Filed 5–15–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 300, 302, and 399

49 CFR Parts 1, 5, 7, 106, 389, 553, and 601

[Docket No. DOT–OST–2025–0007]

RIN 2105–AF32

Administrative Rulemaking, Guidance, and Enforcement Procedures

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

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This NPRM proposes to reinstate and expound upon procedural reforms for the Department's rulemakings, guidance documents, and enforcement actions rescinded by a final rule published by the Department on April 2, 2021, "Administrative Rulemaking, Guidance, and Enforcement Procedures." Accordingly, this proposed rule would revise and update the Department's internal policies and procedures relating to the issuance of rulemaking documents. In addition, this NPRM proposes updates to the Department's procedural requirements governing the review and clearance of guidance documents, and the initiation and conduct of enforcement actions, including administrative enforcement proceedings and judicial enforcement actions brought in Federal court.

DATES: Comments must be received by June 16, 2025. DOT will consider late-filed comments to the extent practicable.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management System; U.S. Department of Transportation, Docket Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, Ground Floor, Room W12–140, 1200

New Jersey Avenue SE, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

- *Instructions:* You must include the agency name and docket number DOT–OST–2025–007 or the Regulatory Identification Number (RIN 2105–AF32) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Jill Laptosky, Office of Regulation and Legislation, Office of the General Counsel, 202–493–0308, Jill.Laptosky@dot.gov.

SUPPLEMENTARY INFORMATION: The Department proposes to reinstate procedural reforms to its policies and procedures governing the issuance of rulemakings and guidance documents, and the initiation and conduct of enforcement actions repealed by a final rule published by the Department on April 2, 2021, "Administrative Rulemaking, Guidance, and Enforcement Procedures" (86 FR 17292), which the Department issued in response to two Executive Orders that were revoked by the President in Executive Order 14148, "Initial Rescissions of Harmful Executive Orders and Actions" (January 20, 2025).¹ The reforms proposed in this NPRM set forth (1) updated policies and procedures governing the development and issuance of regulations by the Department's operating administrations and components of the Office of the Secretary; (2) enhanced procedures for the review and clearance of guidance documents; and (3) improved procedural requirements governing the Department's administrative enforcement actions and judicial enforcement actions brought in Federal court, including express rights of regulated parties to enforce the protections proposed in this NPRM through administrative proceedings.

In rescinding these procedures in 2021, the Department argued that many of the provisions that would be reinstated through this action were already contained in existing internal procedures, could be accomplished by internal directives as necessary and appropriate, and could slow important regulatory efforts. The Department has reconsidered these justifications for the 2021 rulemaking and supports the recodification of the procedures. While many of the procedures contained in this notice of proposed rulemaking are

contained in internal procedures, they are not found in one comprehensive and consolidated source. Codifying the Department's procedures concerning enforcement and the development and issuance of rulemaking and guidance documents into the Code of Federal Regulations leaves no doubt to departmental staff and regulated entities on the expectations regarding the procedural safeguards and expectations governing the Department's administrative actions. In addition, the Department finds that any administrative delay associated with these procedures would not only be minimal, based on past practice with these procedures, but also would be outweighed by the Department's production of higher quality rulemaking, guidance documents, and enforcement actions. The Department produces its best work when it is informed by robust public input, the best available data, and sound law and economics, and these procedures increase opportunities to receive those essential building blocks for good governance that would strengthen the overall quality and fairness of the Department's administrative actions. In addition, the Department proposes to revise the existing policies and procedures because they are inconsistent with current departmental and Administration policy, and do not consider the costs and implications of government regulation and intervention adequately.

Rulemaking Procedures

The procedures set forth in this proposed rule would apply to all phases of the Department's rulemaking process, from advance notices of proposed rulemakings to the promulgation of final rules, including substantive rules, rules of interpretation, and rules prescribing agency procedures and practice requirements applicable to outside parties. The proposal outlines regulatory policies, such as ensuring that there are no more regulations than necessary, that where they impose burdens, regulations are narrowly tailored to address identified market failures or statutory mandates, and that they specify performance objectives when appropriate.

The proposal would reestablish the Department's Regulatory Reform Task Force and assign it an important role in the development of the Department's regulatory portfolio and ongoing review of regulations. As proposed, the Regulatory Reform Task Force would be chaired by the Regulatory Reform Officer and tasked with evaluating

¹ Executive Order No. 14148, "Initial Rescissions of Harmful Executive Orders and Actions," 90 FR 8237 (January 28, 2025).

proposed and existing regulations and making recommendations to the Secretary of Transportation regarding their promulgation, repeal, replacement, or modification, consistent with applicable law. The proposed rule outlines the structure, membership, and responsibilities of the Regulatory Reform Task Force at proposed 49 CFR 5.9.

This NPRM also proposes procedures the Department would follow for all stages of the rulemaking process, including the initiation of new rulemakings, the development of economic analyses, the contents of rulemaking documents, their review and clearance, and the opportunity for fair and sufficient public participation. The proposed rule also updates the Department's policies regarding contacts with outside parties during the rulemaking process as well as the ongoing review of existing regulations.

Consistent with the current Administration and Department regulatory philosophy that rules imposing the greatest costs on the public should be subject to heightened procedural requirements, the NPRM proposes reinstating enhanced procedures for economically significant and high-impact rulemakings that were rescinded by the 2021 amendments. Economically significant rulemakings are defined as those rules that would result in a total annualized cost on the U.S. economy of \$100 million or more, or a total net loss of at least 75,000 full-time jobs in the United States over 5 years. These changes can be found at proposed 49 CFR 5.17(a)(1). High-impact rulemakings would result in a total annualized cost on the U.S. economy of \$500 million or more, or a total net loss of at least 250,000 full-time jobs in the United States over 5 years as set forth in proposed 49 CFR 5.17(a)(2). Under this proposal, these costly rulemakings would be subject to enhanced rulemaking procedures, such as advance notices of proposed rulemakings and formal hearings. The procedures for economically significant and high-impact rulemakings are provided at proposed 49 CFR 5.17. DOT invites public comment on whether the thresholds chosen for net job losses at the economically significant and high-impact levels are the most appropriate or whether DOT should consider a different number. DOT also requests any data or studies that show net job loss estimates in connection with past DOT rulemakings.

The NPRM proposes to retain and revise some procedures. For example, the Department's existing procedures for the filing of rulemaking petitions would

be retained but revised to clarify the public's opportunities to petition the Department. As amended in 2021, the Department's procedures removed references to retrospective reviews of existing rules and the modification or rescission of guidance documents but noted that the Department would nevertheless continue to accept those type of petitions in addition to petitions for rulemakings and exemptions. This proposal would amend the procedures to reference explicitly again the public's ability to file petitions for retrospective regulatory reviews of existing rules and the modification or rescission of guidance documents. The Department also proposes to reinstate the enhanced policies governing the issuance of direct final rules.²

This rulemaking would update references throughout DOT regulations as needed to account for updated internal procedures. This proposed rule would also revise the regulations at 14 CFR 300.2 to delete a reference to rescinded DOT Orders 2100.6 and 2100.6A, and replace it with DOT Order 2100.6B, and update the procedures for petitions for rulemakings found in 14 CFR 302.16 to provide explicitly that interested parties may file petitions for the Department to perform retrospective reviews as noted above. Other minor conforming amendments are proposed for our regulations at 49 CFR parts 1 and 7. Finally, this NPRM proposes to reinstate the DOT policy regarding contacts with outside parties during the rulemaking process, which can be found at proposed 5 CFR 5.19.

Guidance Document Procedures

This NPRM proposes to reinstate into the Code of Federal Regulations at 49 CFR part 5, subpart C, policies and procedures that would apply to all guidance documents, which the Department defines as an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation, but which is not intended to have the force or effect of law in its own right and is not otherwise required by statute to satisfy the rulemaking procedures of the Administrative Procedure Act. This proposal would reinstate procedures regarding the review and clearance of

guidance documents rescinded with the 2021 amendments. The proposed procedures would ensure that all guidance documents receive legal review and, when appropriate, Office of the Secretary review. The proposal would also require that, before guidance documents are issued, they must be reviewed to ensure they are written in plain language and do not impose any substantive legal requirements above and beyond statute or regulation. In addition, if a guidance document purports to describe, approve, or recommend specific conduct that stretches beyond what is required by existing law, the proposal would require that it include a clear and prominent statement effectively stating that the contents of the guidance document do not have the force and effect of law and are not meant to bind the public in any way, and the guidance document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. The proposed procedures for the review and clearance of guidance documents can be found at proposed 49 CFR 5.27, 5.29, and 5.35.

In recognition of the fact that, even though guidance documents are not legally binding, they could nevertheless have a substantial economic impact on regulated entities that alter their conduct to conform to the guidance, this proposed rule would require a good faith cost assessment of the impact of the guidance document. This policy is outlined at proposed 49 CFR 5.33.

This proposed rule also seeks to reinstate other policies and procedures rescinded by the 2021 amendments, such as those describing when guidance documents are subject to notice and an opportunity for public comment and how they will be made available to the public after issuance. See proposed 49 CFR 5.31 and 5.39. These proposed procedures are intended to ensure that the public has access to guidance documents issued by the Department and a fair and sufficient opportunity to comment on guidance documents when appropriate and practicable. The proposed rule also provides a process for interested parties to petition the Department for the withdrawal or modification of guidance documents at proposed 49 CFR 5.43. It would also reinstate a requirement that the comment period for significant guidance documents be at least 30 days, except when the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. See proposed 49 CFR 5.41.

² This aspect of the proposal would also amend the direct final rule procedures for the following operating administrations: Pipeline and Hazardous Materials Safety Administration, Federal Railroad Administration, Federal Motor Carrier Safety Administration, and National Highway Traffic Safety Administration.

Enforcement Procedures

This proposed rule would reinstate into the Code of Federal Regulations at 49 CFR part 5, subpart D, policies and procedures rescinded by the 2021 amendments. The proposed policies clarify the requirements governing enforcement actions initiated by DOT, including administrative enforcement proceedings and judicial enforcement actions brought in Federal court. The proposed policies establish standard operating procedures within the Department's various enforcement programs and are intended to ensure that DOT enforcement actions satisfy principles of due process and remain lawful, reasonable, and consistent with current Departmental and Administration policy.

The proposed rule consolidates these procedural requirements into one centralized location. The Department is committed to proper due process in enforcement proceedings and encourages regulated entities to contact a supervisor or the U.S. Small Business Administration, when appropriate, with any concerns arising from our duty to review compliance with the Department's regulations related to our authority and jurisdiction. In addition, the Department is proposing to add certain new provisions, including provisions conferring express rights on regulated parties to enforce the protections of the rule through administrative proceedings. As proposed, these proceedings include the opportunity for the subject of a DOT enforcement action to petition the General Counsel (with potential for appeal to the Secretary) for a determination that responsible DOT personnel violated provisions of this rule with respect to the enforcement action. The proposed remedies for the violations include the removal of the enforcement team from the particular matter, and, where appropriate, a recommendation from the General Counsel to the relevant agency decisionmaker for appropriate administrative discipline of personnel found to have violated the rule; the elimination of certain issues or the exclusion of certain evidence or the directing of certain factual findings in the course of the enforcement action; and a requirement to restart the enforcement action again from the beginning or recommence the action from an earlier point in the proceeding.

With these changes, the proposed rule would ensure that DOT provides affected parties appropriate due process in all enforcement actions, that the Department's conduct is fair and free of

bias and concludes with a well-documented decision as to violations alleged and any violations found to have been committed, that the penalties or corrective actions imposed for such violations are reasonable, and that proper steps needed to ensure future compliance were undertaken by the regulated party. It is in the public interest and fundamental to good government that the Department carry out its enforcement responsibilities in a fair and just manner.

This proposed rule incorporates requirements related to cooperative information sharing, the Small Business Regulatory Enforcement Fairness (SBREFA) Act, and ensuring reasonable administrative inspections.

Administrative Procedure

Under the Administrative Procedure Act, an agency may waive the normal notice and comment procedures if the action is a rule of agency organization, procedure, or practice. See 5 U.S.C. 553(b)(A). The Department did not request comment for the 2021 amendments because that rule merely incorporated existing internal procedures applicable to the Department's administrative procedures into the Code of Federal Regulations. However, because this proposed rule confers express rights on regulated parties to enforce the protections of the rule through administrative proceedings, the Department seeks public comment on this proposal.

Before these proposed policies and procedures are adopted as final regulations, consideration will be given to comments that are submitted timely to the Department as prescribed in the preamble under the **ADDRESSES** section. The Department seeks comment on all aspects of this proposal. Any comments submitted will be made available at <https://www.regulations.gov> or upon request.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rulemaking is a significant regulatory action under Executive Order 12866. However, the Department does not anticipate that this rulemaking will have a direct economic impact on regulated entities. This is a rule of agency procedure and practice. The NPRM describes the proposed updates and amendments to the Department's internal procedures for the promulgation and processing of rulemaking and guidance documents, and for initiating and conducting enforcement proceedings. The

Department proposes to adopt these internal procedures as part of its regulatory reform initiative and has not incurred any additional resource costs in doing so. The adoption of these practices will be accomplished through a realignment of existing agency resources, and it is anticipated that the public will benefit from the resulting increase in efficiency and transparency in delivery of government services.

This proposed rule would establish procedures on rulemaking as a comprehensive set of regulations that will increase accountability, ensure more robust public participation, and strengthen the overall quality and fairness of the Department's administrative actions. The Department has a long history of Federal leadership in adopting good regulatory practices, and this action is consistent with that history. While it is anticipated that the direct impact of this rule will be experienced internally to the Department in the form of streamlined and clarified regulatory processes, additional secondary and positive impacts due to improved decision making are expected.

Regulated entities and the public will continue to benefit from these enhanced procedures through increased agency deliberations and more opportunities to comment on rulemakings and guidance documents. With regard to the enforcement procedures, we anticipate that there will be no additional costs on regulated entities, as individual regulations already published by DOT agencies account for current costs of compliance. This final rule will simply clarify the internal DOT procedural requirements necessary to ensure fair and reasonable enforcement processes where violations are alleged to have occurred by the regulated community.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This proposed rule is not an E.O. 14192 (90 FR 9065, January 31, 2025) regulatory action because this rulemaking is related to agency organization, management, or personnel.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a proposal will

not have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis (IRFA) of the proposed rule. An IRFA is not required if the agency head certifies that a rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605).

While most of this proposed rule's provisions concern internal management of the Department, one provision of it would confer express rights on regulated parties, some of whom are small entities, to enforce the protections of the rule through administrative proceedings. The Department expects the impact of that provision would be entirely beneficial to small entities. Accordingly, I hereby certify that this rulemaking would not have a significant economic impact on a substantial number of small entities.

D. Executive Order 13132 (Federalism)

Executive Order 13132 requires agencies to ensure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (August 4, 1999), and DOT has determined that this action will not have a substantial direct effect or federalism implications on the States and would not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions. Therefore, consultation with the States is not necessary.

E. Executive Order 13175

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

F. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*) requires that DOT consider the impact of paperwork and other information

collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. The DOT has determined there are no new information collection requirements associated with this final rule.

G. National Environmental Policy Act

The agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, "Procedures for Considering Environmental Impacts" (44 FR 56420, October 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). Paragraph 4(c)(5) of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Transit Administration's implementing procedures, "[p]lanning and administrative activities that do not involve or lead directly to construction, such as: . . . promulgation of rules, regulations, directives . . ." 23 CFR 771.118(c)(4) and Federal Highway Administration's implementing procedures, "[p]romulgation of rules, regulations, and directives." 23 CFR 771.117(c)(20). The purpose of this rulemaking is to update the Department's administrative procedures for rulemaking, guidance documents, and enforcement actions. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in the spring and fall of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

14 CFR Part 300

Administrative practice and procedure, Conflicts of interests.

14 CFR Part 302

Administrative practice and procedure, Air carriers, Airports, Postal Service.

14 CFR Part 399

Consumer protection, Policies, Rulemaking proceedings, Enforcement, Unfair or deceptive practices.

49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Part 5

Administrative practice and procedure.

49 CFR Part 7

Freedom of information, Reporting and recordkeeping requirements.

49 CFR Part 106

Administrative practice and procedure, Hazardous materials transportation.

49 CFR Part 389

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety.

49 CFR Part 553

Administrative practice and procedure, Motor vehicle safety.

49 CFR Part 601

Authority delegations (Government agencies), Freedom of information, Organization and functions (Government agencies).

Issued in Washington, DC.

Sean Duffy,
Secretary.

In consideration of the foregoing, the Office of the Secretary of Transportation proposes to amend 14 CFR parts 300, 302, and 399, and 49 CFR parts 1, 5, 7, 106, 389, 553, and 601, as follows:

Title 14—Aeronautics and Space

PART 300—RULES OF CONDUCT IN DOT PROCEEDINGS UNDER THIS CHAPTER

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 49 U.S.C. subtitle I and chapters 401, 411, 413, 415, 417, 419, 421, 449, 461, 463, and 465.

■ 2. Amend § 300.2 by revising paragraph (b)(4)(ii) to read as follows:

§ 300.2 Prohibited Communications.

* * * * *

(b) * * *

(4) * * *

(ii) A rulemaking proceeding involving a hearing as described in paragraph (b)(4)(i) of this section or an exemption proceeding covered by this chapter. (Other rulemaking proceedings are covered by the ex parte communication policies of DOT Order 2100.6B and 49 CFR 5.19.)

* * * * *

PART 302—RULES OF PRACTICE IN PROCEEDINGS

■ 3. The authority citation for part 302 continues to read as follows:

Authority: 39 U.S.C. 5402; 42 U.S.C. 4321, 49 U.S.C. Subtitle I and Chapters 401, 411, 413, 415, 417, 419, 461, 463, and 471.

■ 4. Revise § 302.16 to read as follows:

§ 302.16 Petitions for rulemaking.

Any interested person may petition the Department for the issuance, amendment, modification, or repeal of any regulation or guidance document, or for the Department to perform a retrospective review of an existing rule, subject to the provisions of part 5, Rulemaking Procedures, of the Office of the Secretary regulations (49 CFR 5.13(c) and 5.43).

PART 399—STATEMENTS OF GENERAL POLICY

■ 5. The authority citation for part 399 continues to read as follows:

Authority: 49 U.S.C. 40113(a), 41712, 46106, 46107, and 42305.

■ 6. Amend § 399.75 by revising paragraph (b) introductory text to read as follows:

§ 399.75 Rulemakings relating to unfair and deceptive practices.

* * * * *

(b) Procedural requirements. When issuing a proposed regulation under paragraph (a) of this section that is defined as high impact or economically significant within the meaning of 49 CFR 5.17(a), the Department shall follow the procedural requirements set forth in 49 CFR 5.17. When issuing a proposed regulation under paragraph (a) of this section that is not defined as high impact or economically significant within the meaning of 49 CFR 5.17(a), unless the regulation is specifically required by statute, the Department shall adhere to the following procedural requirements:

* * * * *

Title 49—Transportation**PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES**

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

Authority: 49 U.S.C. 322.

■ 8. Amend § 1.27 by revising paragraph (e) to read as follows:

§ 1.27 Delegations to the General Counsel.

* * * * *

(e) Respond to petitions for rulemaking or petitions for exemptions in accordance with 49 CFR 5.13(c)(2) (Processing of petitions), and notify petitioners of decisions in accordance with 49 CFR 5.13(c)(4)(v).

* * * * *

■ 9. Revise part 5 to read as follows:

PART 5—ADMINISTRATIVE RULEMAKING, GUIDANCE, AND ENFORCEMENT PROCEDURES**Subpart A—GENERAL**

Sec.

5.1 Applicability.

Subpart B—Rulemaking Procedures

5.3 General.

5.5 Regulatory policies.

5.7 Responsibilities.

5.9 Regulatory Reform Task Force.

5.11 Initiating a rulemaking.

5.13 General rulemaking procedures.

5.15 Unified Agenda of Regulatory and Deregulatory Actions (Unified Agenda).

5.17 Special procedures for economically significant and high-impact rulemakings.

5.19 Public contacts in informal rulemaking.

5.21 Policy updates and revisions.

Subpart C—Guidance Procedures

5.25 General.

5.27 Review and clearance by Chief Counsels and the Office of the General Counsel.

5.29 Requirements for clearance.

5.31 Public access to effective guidance documents.

5.33 Good faith cost estimates.

5.35 Approved procedures for guidance documents identified as “significant” or “otherwise of importance to the Department’s interests.”

5.37 Definitions of “significant guidance document” and guidance documents that are “otherwise of importance to the Department’s interests.”

5.39 Designation procedures.

5.41 Notice-and-comment procedures.

5.43 Petitions for guidance

5.45 Rescinded guidance.

5.47 Exigent circumstances.

5.49 Reports to Congress and GAO.

Subpart D—Enforcement Procedures

5.53 General.

5.55 Enforcement attorney responsibilities.

5.57 Definitions.

5.59 Enforcement policy generally.

5.61 Investigative functions.

5.63 Clear legal foundation.

5.65 Proper exercise of prosecutorial and enforcement discretion.

5.67 Duty to review for legal sufficiency.

5.69 Fair notice.

5.71 Separation of functions.

5.73 Avoiding bias.

5.75 Representation of regulated parties.

5.77 Formal enforcement adjudications.

5.79 Informal enforcement adjudications.

5.81 The hearing record.

5.83 Contacts with the public.

5.85 Duty to disclose exculpatory evidence.

5.87 Use of guidance documents in administrative enforcement cases.

5.89 Alternative Dispute Resolution (ADR).

5.91 Duty to adjudicate proceedings promptly.

5.93 Termination of investigation.

5.95 Initiation of additional investigations.

5.97 Agency decisions.

5.99 Settlements.

5.101 OGC approval required for certain settlement terms.

5.103 Basis for civil penalties and disclosures thereof.

5.105 Publication of decisions.

5.107 Coordination with the Office of Inspector General on criminal matters.

5.109 Standard operating procedures.

5.111 Cooperative information sharing.

5.113 Small Business Regulatory Enforcement Fairness Act (SBREFA).

5.115 Referral of matters for judicial enforcement.

5.117 Publicly available decisional quality and efficiency metrics.

5.119 Enforcement rights.

Authority: 49 U.S.C. 322(a).

Subpart A—General**§ 5.1 Applicability.**

(a) This part prescribes general procedures that apply to rulemakings, guidance documents, and enforcement actions of the U.S. Department of Transportation (the Department or DOT), including each of its operating administrations (OAs) and all components of the Office of Secretary of Transportation (OST).

(b) For purposes of this part, *Administrative Procedure Act (APA)* is the Federal statute, codified in scattered sections of chapters 5 and 7 of title 5, United States Code, that governs procedures for agency rulemaking and adjudication and provides for judicial review of final agency actions.

Subpart B—Rulemaking Procedures**§ 5.3 General.**

(a) This subpart governs all DOT employees, contractors, and others subject to supervision and control by DOT officials involved with all phases of rulemaking at DOT.

(b) Unless otherwise required by statute, this subpart applies to all DOT

regulations, which shall include all rules of general applicability promulgated by any components of the Department that affect the rights or obligations of persons outside the Department, including substantive rules, rules of interpretation, and rules prescribing agency procedures and practice requirements applicable to outside parties.

(c) Except as provided in paragraph (d) of this section, this subpart applies to all regulatory actions intended to lead to the promulgation of a rule and any other generally applicable agency directives, circulars, or pronouncements concerning matters within the jurisdiction of an OA or component of OST that are intended to have the force or effect of law or that are required by statute to satisfy the rulemaking procedures specified in 5 U.S.C. 553 or 5 U.S.C. 556.

(d) This subpart does not apply to:

(1) Regulations issued with respect to a military or foreign affairs function of the United States;

(2) Rules addressed solely to internal agency management or personnel matters;

(3) Regulations related to Federal Government procurement; or

(4) Guidance documents, which are not intended to, and do not in fact, have the force or effect of law for parties outside of the Department, and which are governed by part 5, subpart C of this chapter.

§ 5.5 Regulatory policies.

The policies in paragraphs (a) through (j) of this section govern the development and issuance of regulations at DOT:

(a) There should be no more regulations than necessary. In considering whether to propose a new regulation, policy makers should consider whether the specific problem to be addressed requires agency action, whether existing rules (including standards incorporated by reference) have created or contributed to the problem and should be revised or eliminated, and whether any other reasonable alternatives exist that obviate the need for a new regulation.

(b) All regulations must be supported by statutory authority and consistent with the Constitution.

(c) Where they rest on scientific, technical, economic, or other specialized factual information, regulations should be supported by the best available evidence and data.

(d) Regulations should be written in plain English, should be straightforward, and should be clear.

(e) Regulations should be technologically neutral, and, to the extent feasible, they should specify performance objectives, rather than prescribing specific conduct that regulated entities must adopt.

(f) Regulations should be designed to minimize burdens and reduce barriers to market entry whenever possible, consistent with the effective promotion of safety. Where they impose burdens, regulations should be narrowly tailored to address identified market failures or specific statutory mandates.

(g) Unless required by law or compelling safety need, regulations should not be issued unless their benefits are expected to exceed their costs. For each new significant regulation issued, agencies must identify at least ten existing regulatory burdens to be revoked.

(h) Once issued, regulations and other agency actions should be reviewed periodically and revised to ensure that they continue to meet the needs they were designed to address and remain cost-effective and cost-justified.

(i) Full public participation should be encouraged in rulemaking actions, primarily through written comment and engagement in public meetings. Public participation in the rulemaking process should be conducted and documented, as appropriate, to ensure that the public is given adequate knowledge of substantive information relied upon in the rulemaking process.

(j) The process for issuing a rule should be sensitive to the economic impact of the rule; thus, the promulgation of rules that are expected to impose greater economic costs should be accompanied by additional procedural protections and avenues for public participation.

§ 5.7 Responsibilities.

(a) The Secretary of Transportation supervises the overall planning, direction, and control of the Department's Regulatory Agenda; approves regulatory documents for issuance and submission to the Office of Management and Budget (OMB) under Executive Order (E.O.) 12866, "Regulatory Planning and Review" (Oct. 4, 1993); identifies an approximate regulatory budget for each fiscal year as required by E.O. 14192, "Unleashing Prosperity Through Deregulation" (Jan. 31, 2025); establishes the Department's Regulatory Reform Task Force (RRTF); and designates the members of the RRTF and the Department's Regulatory Reform Officer (RRO) in accordance with E.O. 13777, "Enforcing the Regulatory Reform Agenda" (Feb. 24, 2017).

(b) The Deputy Secretary of Transportation assists the Secretary in overseeing overall planning, direction, and control of the Department's Regulatory Agenda and approves the initiation of regulatory action, as defined in E.O. 12866, by the OAs and components of OST. Unless otherwise designated by the Secretary, the Deputy Secretary serves as the Chair of the Leadership Council of the RRTF and as the Department's RRO.

(c) The General Counsel of DOT is the chief legal officer of the Department with final authority on all questions of law for the Department, including the OAs and components of OST; serves on the Leadership Council of the RRTF; and serves as the Department's Regulatory Policy Officer pursuant to section 6(a)(2) of E.O. 12866.

(d) The RRO of DOT is delegated authority by the Secretary to oversee the implementation of the Department's regulatory reform initiatives and policies to ensure the effective implementation of regulatory reforms, consistent with E.O. 13777 and applicable law.

(e) DOT's noncareer Deputy General Counsel is a member of the RRTF and serves as the Chair of the RRTF Working Group.

(f) DOT's Assistant General Counsel for Regulation and Legislation supervises the Office of Regulation and Legislation within the Office of the General Counsel (OGC); oversees the process for DOT rulemakings; provides legal advice on compliance with APA and other administrative law requirements and executive orders, related OMB directives, and other procedures for rulemaking and guidance documents; circulates regulatory documents for departmental review and seeks concurrence from reviewing officials; submits regulatory documents to the Secretary for approval before issuance or submission to OMB; coordinates with the Office of Information and Regulatory Affairs (OIRA) within OMB on the designation and review of regulatory documents and the preparation of the Unified Agenda of Regulatory and Deregulatory Actions; publishes the monthly internet report on significant rulemakings; and serves as a member of the RRTF Working Group.

(g) Pursuant to delegations from the Secretary under part 1 of this title, OA Administrators and Secretarial officers exercise the Secretary's rulemaking authority under 49 U.S.C. 322(a), and they have responsibility for ensuring that the regulatory data included in the New Environment for Information and Leadership on Rules (NEIL Rules), or a

successor data management system, for their OAs and OST components is accurate and is updated at least once a month.

(h) OA Chief Counsels supervise the legal staffs of the OAs; interpret and provide guidance on all statutes, regulations, executive orders, and other legal requirements governing the operation and authorities of their respective OAs; and review all rulemaking documents for legal sufficiency.

(i) Each OA or OST component responsible for rulemaking will have a Regulatory Quality Officer, designated by the Administrator or Secretarial office head, who will have responsibility for reviewing all rulemaking documents for plain language, technical soundness, and general quality.

§ 5.9 Regulatory Reform Task Force.

(a) *Purpose.* The Regulatory Reform Task Force (RRTF) evaluates proposed and existing regulations and makes recommendations to the Secretary regarding their promulgation, repeal, replacement, or modification, consistent with applicable law, E.O. 14192, E.O. 13777, and E.O. 12866.

(b) *Structure.* The RRTF comprises a Leadership Council and a Working Group.

(1) The Working Group coordinates with leadership in the Secretarial offices and OAs, reviews and develops recommendations for regulatory and deregulatory action, and presents recommendations to the Leadership Council.

(2) The Leadership Council reviews the Working Group's recommendations and advises the Secretary.

(c) *Membership.* (1) The Leadership Council comprises the following:

(i) The Regulatory Reform Officer (RRO), who serves as Chair;

(ii) The Department's Regulatory Policy Officer, designated under section 6(a)(2) of E.O. 12866;

(iii) A representative from the Office of the Under Secretary of Transportation for Policy;

(iv) At least three additional senior agency officials as determined by the Secretary.

(2) The Working Group comprises the following:

(i) At least one senior agency official from the Office of the General Counsel, including at a minimum the Assistant General Counsel for Regulation, as determined by the RRO;

(ii) At least one senior agency official from the Office of the Under Secretary of Transportation for Policy, as determined by the RRO;

(iii) Other senior agency officials from the Office of the Secretary, as determined by the RRO.

(d) *Functions and responsibilities.* In addition to the functions and responsibilities enumerated in E.O. 13777, the RRTF performs the following duties:

(1) Reviews each request for a new rulemaking action initiated by an OA or OST component; and

(2) Considers each regulation and regulatory policy question (which may include proposed guidance documents) referred to it and makes a recommendation to the Secretary for its disposition.

(e) *Support.* The Office of Regulation and Legislation within OGC provides support to the RRTF.

(f) *Meetings.* The Leadership Council meets approximately monthly and will hold specially scheduled meetings when necessary to address particular regulatory matters. The Working Group meets approximately monthly with each OA and each component of OST with regulatory authority, and the Working Group may establish subcommittees, as appropriate, to focus on specific regulatory matters.

(g) *Agenda.* The Office of Regulation and Legislation prepares an agenda for each meeting and distributes it to the members in advance of the meeting, together with any documents to be discussed at the meeting. The OA or OST component responsible for matters on the agenda will be invited to attend to respond to questions.

(h) *Minutes.* The Office of Regulation and Legislation prepares summary minutes following each meeting and distributes them to the meeting's attendees.

§ 5.11 Initiating a rulemaking.

(a) Before an OA or component of OST may proceed to develop a regulation, the Administrator of the OA or the Secretarial officer who heads the OST component must consider the regulatory philosophy and principles of regulation identified in section 1 of E.O. 12866 and the policies set forth in section 5.5 of this subpart. If the OA Administrator or OST component head determines that rulemaking is warranted consistent with those policies and principles, the Administrator or component head may prepare a Rulemaking Initiation Request.

(b) The Rulemaking Initiation Request should specifically state or describe:

(1) A proposed title for the rulemaking;

(2) The need for the regulation, including a description of the market

failure or statutory mandate necessitating the rulemaking;

(3) The legal authority for the rulemaking;

(4) Whether the rulemaking is expected to be regulatory or deregulatory;

(5) Whether the rulemaking is expected to be significant or nonsignificant, as defined by E.O. 12866;

(6) Whether the rulemaking in question is expected to be an economically significant rule or high-impact rule, as defined in section 5.17(a) of this subpart;

(7) A description of the economic impact associated with the rulemaking, including whether the rulemaking is likely to impose quantifiable costs or cost savings;

(8) The tentative target dates for completing each stage of the rulemaking; and

(9) Whether there is a statutory or judicial deadline, or some other urgency, associated with the rulemaking.

(c) The OA or OST component submits the Rulemaking Initiation Request to the Office of Regulation and Legislation, together with any other documents that may assist in the RRTF's consideration of the request.

(d) The Office of Regulation and Legislation includes the Rulemaking Initiation Request on the agenda for consideration at the OA's or OST component's next Working Group meeting.

(e) If the Working Group recommends the approval of the Rulemaking Initiation Request, then the Request is referred to the Leadership Council for consideration. In lieu of consideration at a Leadership Council meeting, the Working Group, at its discretion, may submit a memorandum to the RRO seeking approval of the Rulemaking Initiation Request.

(f) The OA or OST component may assign a Regulatory Information Number (RIN) to the rulemaking only upon the Leadership Council's (or RRO's) approval of the Rulemaking Initiation Request.

(g) The Secretary may initiate a rulemaking on his or her own motion. The process for initiating a rulemaking as described in this section may be waived or modified for any rule with the approval of the RRO. Unless otherwise determined by the RRO, the Administrator of the Federal Aviation Administration (FAA) may promulgate an emergency rule under 49 U.S.C. 106(f)(4)(B)(iii) and 49 U.S.C. 46105(c), without first submitting a Rulemaking Initiation Request.

(h) Rulemaking Initiation Requests will be considered on a rolling basis; however, the Office of Regulation and Legislation will establish deadlines for submission of Rulemaking Initiation Requests so that new rulemakings may be included in the Unified Agenda of Regulatory and Deregulatory Actions.

§ 5.13 General rulemaking procedures.

(a) *Definitions.* (1) *Significant rulemaking* means a regulatory action designated by OIRA under E.O. 12866 as likely to result in a rule that may:

(i) Have an annual effect on the U.S. 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;

(ii) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(iii) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(iv) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

(2) *Nonsignificant rulemaking* means a regulatory action not designated significant by OIRA.

(b) *Departmental review process.* (1) OST review and clearance.

(i) Except as provided in this part or as otherwise provided in writing by OGC, or otherwise prescribed by law, all departmental rulemakings are to be reviewed and cleared by the Office of the Secretary.

(ii) The FAA Administrator may promulgate emergency rules pursuant to 49 U.S.C. 106(f)(4)(B)(iii) and 49 U.S.C. 46105(c), without prior approval from OST; provided that, to the maximum extent practicable and consistent with law, the FAA Administrator will give OST advance notice of such emergency rules and will allow OST to review the rules in accordance with the provisions of this subpart upon promulgation, at the latest.

(2) Leadership within the proposing OA or component of OST shall:

(i) Ensure that the OA's or OST component's Regulatory Quality Officer reviews all rulemaking documents for plain language, technical soundness, and general quality;

(ii) Ensure that the OA's Office of Chief Counsel (or for OST rules, the Office within OGC responsible for providing programmatic advice) reviews all rulemaking documents for legal support and legal sufficiency; and

(iii) Approve the submission of all rulemaking documents, including any accompanying analyses (e.g., regulatory impact analysis), to the Office of Regulation and Legislation through the New Environment for Information and Leadership on Rules (NEIL Rules), or a successor data management system, for OST review and clearance.

(3) To effectuate departmental review under this subpart, the following Secretarial offices ordinarily review and approve DOT rulemakings: The Office of the Under Secretary for Policy, the Office of Public Affairs, the Office of Budget and Programs and Chief Financial Officer, OGC, and the Office of Governmental Affairs. The Office of Regulation and Legislation may also require review and clearance by other Secretarial offices and OAs depending on the nature of the particular rulemaking document.

(4) Reviewing offices should provide comments or otherwise concur on rulemaking documents within 7 calendar days, unless exceptional circumstances apply that require expedited review.

(5) The Office of Regulation and Legislation provides a passback of comments to the proposing OA or OST component for resolution. Comments should be resolved and a revised draft submitted to the Office of Regulation and Legislation by the OA or OST component within 14 calendar days.

(6) The Office of Regulation and Legislation prepares a rulemaking package for the General Counsel to request the Secretary's approval for the rulemaking to be submitted to OMB for review and for its subsequent issuance (for significant rulemakings) or to the **Federal Register** for publication (for nonsignificant rulemakings). These rulemaking packages are submitted through the General Counsel to the Office of the Executive Secretariat.

(7) The Office of Regulation and Legislation notifies the proposing OA or OST component when the Secretary approves or disapproves the submission of the rulemaking to OMB or its issuance and submission to the **Federal Register**.

(8) The Office of Regulation and Legislation is responsible for coordination with OIRA staff on the designation of all rulemaking documents, submission and clearance of all significant rulemaking documents, and all discussions or meetings with OMB concerning these documents. OAs and OST components should not schedule their own meetings with OIRA without Office of Regulation and Legislation involvement. Each OA or OST component should coordinate with

the Office of Regulation and Legislation before holding any discussions with OIRA concerning regulatory policy or requests to modify regulatory documents.

(c) *Petitions for rulemaking, exemption, and retrospective review.* (1) Any person may petition an OA or OST component with rulemaking authority to:

(i) Issue, amend, or repeal a rule;

(ii) Issue an exemption, either permanently or temporarily, from any requirements of a rule; or

(iii) Perform a retrospective review of an existing rule.

(2) When an OA or OST component receives a petition under this paragraph (c), the petition should be filed with the Docket Clerk in a timely manner. If a petition is filed directly with the Docket Clerk, the Docket Clerk will submit the petition in a timely manner to the OA or component of OST with regulatory responsibility over the matter described in the petition.

(3) The OA or component of OST should provide clear instructions on its website to members of the public regarding how to submit petitions, including, but not limited to, an email address or Web portal where petitions can be submitted, a mailing address where hard copy requests can be submitted, and an office responsible for coordinating such requests.

(4) Unless otherwise provided by statute or in OA regulations or procedures, the following procedures apply to the processing of petitions for rulemaking, exemption, or retrospective review:

(i) *Contents.* Each petition filed under this section must:

(A) Be submitted, either by paper submission or electronically, to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590;

(B) Describe the nature of the request and set forth the text or substance of the rule or specify the rule that the petitioner seeks to have issued, amended, exempted, repealed, or retrospectively reviewed, as the case may be;

(C) Explain the interest of the petitioner in the action requested, including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of the persons to be covered by the exemption;

(D) Contain any information and arguments available to the petitioner to support the action sought; and

(E) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 60

days before the proposed effective date of the exemption.

(ii) *Processing.* Each petition received under this paragraph (c) is referred to the head of the office responsible for the subject matter of that petition, the Office of Regulation and Legislation, and the RRO. No public hearing, argument, or other proceeding must necessarily be held directly on a petition for its disposition under this section.

(iii) *Grants.* If the OA or component of OST with regulatory responsibility over the matter described in the petition determines that the petition contains adequate justification, it may request the initiation of a rulemaking action under § 5.11 or grant the petition, as appropriate.

(iv) *Denials.* If the OA or component of OST determines that the petition is not justified, the OA or component of OST denies the petition in coordination with the Office of Regulation and Legislation.

(v) *Notification.* Whenever the OA or OST component determines that a petition should be granted or denied, and after consultation with the Office of Regulation and Legislation in the case of denial, the office concerned prepares a notice of that grant or denial for issuance to the petitioner, and issues it to the petitioner.

(d) *Review of existing regulations.* (1) Except as otherwise required by law, all departmental regulations are on a 10-year review cycle, except economically significant and high-impact rules, which are reviewed every 5 years in accordance with section 5.17(f) of this subpart.

(2) The OA or OST component that issued the regulation will review it for the following:

(i) *Continued cost justification:* Whether the regulation requires adjustment due to changed market conditions or is no longer cost-effective or cost-justified in accordance with section 5.5(h);

(ii) *Regulatory flexibility:* Whether the regulation has a significant economic impact on a substantial number of small entities and, thus, requires review under 5 U.S.C. 610 (section 610 of the Regulatory Flexibility Act);

(iii) *Innovation:* Whether there are new or emerging technologies, especially those that could achieve current levels of safety at the same or lower levels of cost or achieve higher levels of safety, use of which is precluded or limited by the regulation.

(iv) *General updates:* Whether the regulation may require technical corrections, updates (e.g., updated versions of voluntary consensus standards), revisions, or repeal;

(v) *Plain language:* Whether the regulation requires revisions for plain language; and

(vi) Other considerations as required by relevant executive orders and laws.

(3) The results of each OA's or OST component's review will be reported annually to the public.

(4) Any member of the public may petition the Department to conduct a retrospective review of a regulation by filing a petition in accordance with the procedures contained in paragraph (c) of this section.

(e) *Supporting economic analysis.* (1) Rulemakings shall include, at a minimum:

(i) An assessment of the potential costs and benefits of the regulatory action (which may entail a regulatory impact analysis) or a reasoned determination that the expected impact is so minimal or the safety need so significant and urgent that a formal analysis of costs and benefits is not warranted; and

(ii) If the regulatory action is expected to impose costs, either a reasoned determination that the benefits outweigh the costs or, if the particular rulemaking is mandated by statute or compelling safety need notwithstanding a negative cost-benefit assessment, a detailed discussion of the rationale supporting the specific regulatory action proposed and an explanation of why a less costly alternative is not an option.

(2) To the extent practicable, economic assessments shall quantify the foreseeable annual economic costs and cost savings within the United States that would likely result from issuance of the proposed rule and shall be conducted in accordance with the requirements of sections 6(a)(2)(B) and 6(a)(2)(C) of E.O. 12866 and OMB Circular A-4, as specified by OIRA in consultation with the Office of Regulation and Legislation. If the proposing OA or OST component has estimated that the proposed rule will likely impose economic costs on persons outside the United States, such costs should be reported separately.

(3) Deregulatory rulemakings (including nonsignificant rulemakings) shall be evaluated for quantifiable cost savings. If it is determined that quantification of cost savings is not possible or appropriate, then the proposing OA or OST component shall provide a detailed justification for the lack of quantification upon submission of the rulemaking to the Office of Regulation and Legislation. Other nonsignificant rulemakings shall include, at a minimum, the economic cost-benefit analysis described in paragraph (e)(1) of this section.

(f) *Regulatory flexibility analysis.* All rulemakings subject to the requirements of 5 U.S.C. 603–604 (sections 603–604 of the Regulatory Flexibility Act), and any amendment thereto, shall include a detailed statement setting forth the required analysis regarding the potential impact of the rule on small business entities.

(g) *Advance notices of proposed rulemaking.* Whenever the OA or OST component responsible for a proposed rulemaking is required to publish an advance notice of proposed rulemaking (ANPRM) in the **Federal Register**, or whenever the RRTF determines it appropriate to publish an ANPRM, the ANPRM shall:

(1) Include a written statement identifying, at a minimum:

(i) The nature and significance of the problem the OA or OST component may address with a rule;

(ii) The legal authority under which a rule may be proposed; and

(iii) Any preliminary information available to the OA or OST component that may support one or another potential approach to addressing the identified problem;

(2) Solicit written data, analysis, views, and recommendations from interested persons concerning the information and issues addressed in the ANPRM; and

(3) Provide for a reasonably sufficient period for public comment.

(h) *Notices of proposed rulemaking—* (1) *When required.* Before determining to propose a rule and following completion of the ANPRM process under paragraph (g) of this section, if applicable, the responsible OA or OST component shall consult with the RRTF concerning the need for the potential rule. If the RRTF thereafter determines it appropriate to propose a rule, the proposing OA or OST component shall publish a notice of proposed rulemaking (NPRM) in the **Federal Register**, unless a controlling statute provides otherwise or unless the RRTF (in consultation with OIRA, as appropriate) determines that an NPRM is not necessary under established exceptions.

(2) *Contents.* The NPRM shall include, at a minimum:

(i) A statement of the time and place for submission of public comments and the time, place, and nature of related public rulemaking proceedings, if any;

(ii) Reference to the legal authority under which the rule is proposed;

(iii) The terms of the proposed rule;

(iv) A description of information known to the proposing OA or OST component on the subject and issues of the proposed rule, including but not limited to:

(A) A summary of material information known to the OA or OST component concerning the proposed rule and the considerations specified in § 5.11(a) of this subpart;

(B) A summary of any preliminary risk assessment or regulatory impact analysis performed by the OA or OST component; and

(C) Information specifically identifying all material data, studies, models, available voluntary consensus standards and conformity assessment requirements, and other evidence or information considered or used by the OA or OST component in connection with its determination to propose the rule;

(v) A reasoned preliminary analysis of the need for the proposed rule based on the information described in the preamble to the NPRM, and an additional statement of whether a rule is required by statute;

(vi) A reasoned preliminary analysis indicating that the expected economic benefits of the proposed rule will meet the relevant statutory objectives and will outweigh the estimated costs of the proposed rule in accordance with any applicable statutory requirements;

(vii) If the rulemaking is significant, a summary discussion of:

(A) The alternatives to the proposed rule considered by the OA or OST component;

(B) The relative costs and benefits of those alternatives;

(C) Whether the alternatives would meet relevant statutory objectives; and

(D) Why the OA or OST component chose not to propose or pursue the alternatives;

(viii) A statement of whether existing rules have created or contributed to the problem the OA or OST component seeks to address with the proposed rule, and, if so, whether or not the OA or OST component proposes to amend or rescind any such rules and why; and

(ix) All other statements and analyses required by law, including, without limitation, the Regulatory Flexibility Act (5 U.S.C. 601–612) or any amendment thereto.

(3) *Information access and quality.* (i) To inform public comment when the NPRM is published, the proposing OA or OST component shall place in the docket for the proposed rule and make accessible to the public, including by electronic means, all material information relied upon by the OA or OST component in considering the proposed rule, unless public disclosure of the information is prohibited by law or the information would be exempt from disclosure under 5 U.S.C. 552(b). Material provided electronically should

be made available in accordance with the requirements of 29 U.S.C. 794d (section 508 of the Rehabilitation Act of 1973, as amended).

(ii) If the proposed rule rests upon scientific, technical, economic, or other specialized factual information, the proposing OA or OST component shall base the proposal on the best and most relevant scientific, technical, economic, and other specialized factual information reasonably available to the Department and shall identify the sources and availability of such information in the NPRM.

(iii) A single copy of any relevant copyrighted material (including consensus standards and other relevant scientific or technical information) should be placed in the docket for public review if such material was relied on as a basis for the rulemaking.

(i) *Public comment.* (1) Following publication of an NPRM, the Department will provide interested persons a fair and sufficient opportunity to participate in the rulemaking through submission of written data, analysis, views, and recommendations.

(2) The Department, in coordination with OIRA for significant rulemakings, will ensure that the public is given an adequate period for comment, taking into account the scope and nature of the issues and considerations involved in the proposed regulatory action.

(3) Generally, absent special considerations, the comment period for nonsignificant DOT rules should be at least 30 days, and the comment period for significant DOT rules should be at least 45 days.

(4) Any person may petition the responsible OA or OST component for an extension of time to submit comments in response to a notice of proposed rulemaking. Petitions must be received no later than 3 days before the expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for comments. The OA or OST component may grant the petition only if the petitioner shows a substantive interest in the proposed rule and good cause for the extension, or if the extension is otherwise in the public interest. If an extension is granted, it is granted as to all persons and published in the **Federal Register**.

(5) All timely comments are considered before final action is taken on a rulemaking proposal. Late-filed comments may be considered so far as possible without incurring additional expense or delay.

(j) *Exemptions from notice and comment.* (1) Except when prior notice and an opportunity for public comment

are required by statute or determined by the Secretary to be advisable for policy or programmatic reasons, the responsible OA or OST component may, subject to the approval of the RRTF (in consultation with OIRA, as appropriate), publish certain final rules in the **Federal Register** without prior notice and comment. These may include:

(i) Rules of interpretation and rules addressing only DOT organization, procedure, or practice, provided such rules do not alter substantive obligations for parties outside the Department;

(ii) Rules for which notice and comment is unnecessary to inform the rulemaking, such as rules correcting de minimis technical or clerical errors or rules addressing other minor and insubstantial matters, provided the reasons to forgo public comment are explained in the preamble to the final rule; and

(iii) Rules that require finalization without delay, such as rules to address an urgent safety or national security need, and other rules for which it would be impracticable or contrary to public policy to accommodate a period of public comment, provided the responsible OA or OST component makes findings that good cause exists to forgo public comment and explains those findings in the preamble to the final rule.

(2) Except when required by statute, issuing substantive DOT rules without completing notice and comment, including as interim final rules (IFRs) and direct final rules (DFRs), must be the exception. IFRs and DFRs are not favored. DFRs must follow the procedures in paragraph (l) of this section. In most cases where an OA or OST component has issued an IFR, the RRTF will expect the OA or OST component to proceed at the earliest opportunity to replace the IFR with a final rule.

(k) *Final rules.* The responsible OA or OST component shall adopt a final rule only after consultation with the RRTF. The final rule, which shall include the text of the rule as adopted along with a supporting preamble, shall be published in the **Federal Register** and shall satisfy the following requirements:

(1) The preamble to the final rule shall include:

(i) A concise, general statement of the rule's basis and purpose, including clear reference to the legal authority supporting the rule;

(ii) A reasoned, concluding determination by the adopting OA or OST component regarding each of the considerations required to be addressed in an NPRM under paragraphs (h)(2)(v) through (ix) of this section;

(iii) A response to each significant issue raised in the comments to the proposed rule;

(iv) If the final rule has changed in significant respects from the rule as proposed in the NPRM, an explanation of the changes and the reasons why the changes are needed or are more appropriate to advance the objectives identified in the rulemaking; and

(v) A reasoned, final determination that the information upon which the OA or OST component bases the rule complies with the Information Quality Act (section 515 of Pub. L. 106–554—Appendix C, 114 Stat. 2763A–153–54 (2001)), or any subsequent amendment thereto.

(2) If the rule rests on scientific, technical, economic, or other specialized factual information, the OA or OST component shall base the final rule on the best and most relevant evidence and data known to the Department and shall ensure that such information is clearly identified in the preamble to the final rule and is available to the public in the rulemaking record, subject to reasonable protections for information exempt from disclosure under 5 U.S.C. 552(b). If the OA or OST component intends to support the final rule with specialized factual information identified after the close of the comment period, the OA or OST component shall allow an additional opportunity for public comment on such information.

(3) All final rules issued by the Department:

(i) Shall be written in plain and understandable English;

(ii) Shall be based on a reasonable and well-founded interpretation of relevant statutory text and shall not depend upon a strained or unduly broad reading of statutory authority; and

(iii) Shall not be inconsistent or incompatible with, or unnecessarily duplicative of, other Federal regulations.

(4) Effective dates for final rules must adhere to the following:

(i) Unless required to address a safety emergency or otherwise required by law, approved by the RRTF (or RRO), or approved by the Director of OMB (as appropriate), no regulation may be issued by an OA or component of OST if it was not included on the most recent version or update of the published Unified Agenda.

(ii) No significant regulatory action may take effect until it has appeared in either the Unified Agenda or the monthly internet report of significant rulemakings for at least 6 months prior to its issuance, unless good cause exists for an earlier effective date or the action

is otherwise approved by the RRTF (or RRO).

(iii) Absent good cause, major rules (as defined by the Congressional Review Act, 5 U.S.C. 801–808) cannot take effect until 60 days after publication in the **Federal Register** or submission to Congress, whichever is later. Nonmajor rules cannot take effect any sooner than submission to Congress.

(l) *Direct final rules.* (1) Rules that the OA or OST component determines to be noncontroversial and unlikely to result in adverse public comment may be published as direct final rules. These include noncontroversial rules that:

(i) Affect internal procedures of the Department, such as filing requirements and rules governing inspection and copying of documents,

(ii) Are nonsubstantive clarifications or corrections to existing rules,

(iii) Update existing forms,

(iv) Make minor changes in the substantive rules regarding statistics and reporting requirements,

(v) Make changes to the rules implementing the Privacy Act, or

(vi) Adopt technical standards set by outside organizations.

(2) The **Federal Register** document will state that any adverse comment must be received in writing by the OA or OST component within the specified time after the date of publication and that, if no written adverse comment is received, the rule will become effective a specified number of days after the date of publication.

(3) If no written adverse comment is received by the OA or OST component within the original or extended comment period, the OA or OST component will publish a notice in the **Federal Register** indicating that no adverse comment was received and confirming that the rule will become effective on the date that was indicated in the direct final rule.

(4) If the OA or OST component receives any written adverse comment within the specified time of publication in the **Federal Register**, the OA or OST component may proceed as follows:

(i) Publish a document withdrawing the direct final rule in the rules and regulations section of the **Federal Register** and, if the OA or OST component decides a rulemaking is warranted, a proposed rule; or

(ii) Any other means permitted under the Administrative Procedure Act. (5) An “adverse” comment for the purpose of this subpart means any comment that the OA or OST component determines is critical of the rule, suggests that the rule should not be adopted or suggests a material change that should be made in the rule. A comment suggesting that

the policy or requirements of the rule should or should not also be extended to other Departmental programs outside the scope of the rule is not adverse. A notice of intent to submit an adverse comment is not, in and of itself, an adverse comment.

(m) *Reports to Congress and GAO.* For each final rule adopted by DOT, the responsible OA or OST component shall submit the reports to Congress and the U.S. Government Accountability Office to comply with the procedures specified by 5 U.S.C. 801 (the Congressional Review Act), or any subsequent amendment thereto.

(n) *Negotiated rulemakings.* (1) DOT negotiated rulemakings are to be conducted in accordance with the Negotiated Rulemaking Act, 5 U.S.C. 561–571, and the Federal Advisory Committee Act, 5 U.S.C. App. 2, as applicable.

(2) Before initiating a negotiated rulemaking process, the OA or OST component should:

(i) Assess whether using negotiated rulemaking procedures for the proposed rule in question is in the public interest, in accordance with 5 U.S.C. 563(a), and present these findings to the RRTF;

(ii) Consult with the Office of Regulation and Legislation on the appropriateness of negotiated rulemaking and the procedures therefor; and

(iii) Receive the approval of the RRTF for the use of negotiated rulemaking.

(3) Unless otherwise approved by the General Counsel, all DOT negotiated rulemakings should involve the assistance of a convener and a facilitator, as provided in the Negotiated Rulemaking Act. A convener is a person who impartially assists the agency in determining whether establishment of a negotiated rulemaking committee is feasible and appropriate in a particular rulemaking. A facilitator is a person who impartially aids in the discussions and negotiations among members of a negotiated rulemaking committee to develop a proposed rule. The same person may serve as both convener and facilitator.

(4) All charters, membership appointments, and **Federal Register** notices must be approved by the Secretary. Any operating procedures (e.g., bylaws) for negotiated rulemaking committees must be approved by OGC.

§ 5.15 Unified Agenda of Regulatory and Deregulatory Actions (Unified Agenda).

(a) Fall editions of the Unified Agenda include the Regulatory Plan, which presents the Department’s statement of regulatory priorities for the coming year. Fall editions also include the outcome

and status of the Department's reviews of existing regulations, conducted in accordance with § 5.13(d).

(b) The OAs and components of OST with rulemaking authority must:

(1) Carefully consider the principles contained in E.O. 14192, E.O. 13777, and E.O. 12866 in the preparation of all submissions for the Unified Agenda;

(2) Ensure that all data pertaining to the OA's or OST component's regulatory and deregulatory actions are accurately reflected in the Department's Unified Agenda submission; and

(3) Timely submit all data to the Office of Regulation and Legislation in accordance with the deadlines and procedures communicated by that office.

§ 5.17 Special procedures for economically significant and high-impact rulemakings.

(a) *Definitions.* (1) *Economically significant rule* means a significant rule likely to impose:

(i) A total annual cost on the U.S. economy (without regard to estimated benefits) of \$100 million or more, or

(ii) A total net loss of at least 75,000 full-time jobs in the U.S. over the five years following the effective date of the rule (not counting any jobs relating to new regulatory compliance).

(2) *High-impact rule* means a significant rule likely to impose:

(i) A total annual cost on the U.S. economy (without regard to estimated benefits) of \$500 million or more, or

(ii) A total net loss of at least 250,000 full-time jobs in the U.S. over the five years following the effective date of the rule (not counting any jobs relating to new regulatory compliance).

(b) *ANPRM required.* Unless directed otherwise by the RRTF or otherwise required by law, in the case of a rulemaking for an economically significant rule or a high-impact rule, the proposing OA or OST component shall publish an ANPRM in the **Federal Register**.

(c) *Additional requirements for NPRM.* (1) In addition to the requirements set forth in § 5.13, an NPRM for an economically significant rule or a high-impact rule shall include a discussion explaining an achievable objective for the rule and the metrics by which the OA or OST component will measure progress toward that objective.

(2) Absent unusual circumstances and unless approved by the RRTF (in consultation with OIRA, as appropriate), the comment period for an economically significant rule shall be at least 60 days and for a high-impact rule at least 90 days. If a rule is determined to be an economically significant rule or high-

impact rule after the publication of the NPRM, the responsible OA or OST component shall publish a notice in the **Federal Register** that informs the public of the change in classification and discusses the achievable objective for the rule and the metrics by which the OA or OST component will measure progress toward that objective, and shall extend or reopen the comment period by not less than 30 days and allow further public comment as appropriate, including comment on the change in classification.

(d) *Procedures for formal hearings—*

(1) *Petitions for hearings.* Following publication of an NPRM for an economically significant rule or a high-impact rule, and before the close of the comment period, any interested party may file in the rulemaking docket a petition asking the proposing OA or OST component to hold a formal hearing on the proposed rule in accordance with this section.

(2) *Mandatory hearing for high-impact rule.* In the case of a proposed high-impact rule, the responsible OA or OST component shall grant the petition for a formal hearing if the petition makes a plausible prima facie showing that:

(i) The proposed rule depends on conclusions concerning one or more specific scientific, technical, economic, or other complex factual issues that are genuinely in dispute or that may not satisfy the requirements of the Information Quality Act;

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

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

(3) *Authority to deny hearing for economically significant rule.* In the case of a proposed economically significant rule, the responsible OA or OST component may deny a petition for a formal hearing that includes the showing described in paragraph (d)(2) of this section but only if the OA or OST component reasonably determines that:

(i) The requested hearing would not advance the consideration of the proposed rule and the OA's or OST component's ability to make the rulemaking determinations required under this subpart; or

(ii) The hearing would unreasonably delay completion of the rulemaking in light of a compelling safety need or an

express statutory mandate for prompt regulatory action.

(4) *Denial of petition.* If the OA or OST component denies a petition for a formal hearing under this section in whole or in part, the OA or OST component shall include a detailed explanation of the factual basis for the denial in the rulemaking record, including findings on each of the relevant factors identified in paragraph (d)(2) or (3) of this section. The denial of a good faith petition for a formal hearing under this section shall be disfavored.

(5) *Notice and scope of hearing.* If the OA or OST component grants a petition for a formal hearing under this section, the OA or OST component shall publish notification of the hearing in the **Federal Register** not less than 45 days before the date of the hearing. The document shall specify the proposed rule at issue and the specific factual issues to be considered in the hearing. The scope of the hearing shall be limited to the factual issues specified in the notice.

(6) *Hearing process.* (i) A formal hearing for purposes of this section shall be conducted using procedures borrowed from 5 U.S.C. 556 and 5 U.S.C. 557, or similar procedures as approved by the Secretary, and interested parties shall have a reasonable opportunity to participate in the hearing through the presentation of testimony and written submissions.

(ii) The OA or OST component shall arrange for an administrative judge or other neutral administrative hearing officer to preside over the hearing and shall provide a reasonable opportunity for cross-examination of witnesses at the hearing.

(iii) After the formal hearing and before the record of the hearing is closed, the presiding hearing officer shall render a report containing findings and conclusions addressing the disputed issues of fact identified in the hearing notice and specifically advising on the accuracy and sufficiency of the factual information in the record relating to those disputed issues on which the OA or OST component proposes to base the rule.

(iv) Interested parties who have participated in the hearing shall be given an opportunity to file statements of agreement or objection in response to the hearing officer's report, and the complete record of the proceeding shall be made part of the rulemaking record.

(7) *Actions following hearing.* (i) Following completion of the formal hearing process, the responsible OA or OST component shall consider the record of the hearing and, subject to the

approval of the RRTF (in consultation with OIRA, as appropriate), shall make a reasoned determination whether:

(A) To terminate the rulemaking;
(B) To proceed with the rulemaking as proposed; or

(C) To modify the proposed rule.
(ii) If the decision is made to terminate the rulemaking, the OA or OST component shall publish a notice in the **Federal Register** announcing the decision and explaining the reasons therefor.

(iii) If the decision is made to finalize the proposed rule without material modifications, the OA or OST component shall explain the reasons for its decision and its responses to the hearing record in the preamble to the final rule, in accordance with paragraph (e) of this section.

(iv) If the decision is made to modify the proposed rule in material respects, the OA or OST component shall, subject to the approval of the RRTF (in consultation with OIRA, as appropriate), publish a new or supplemental NPRM in the **Federal Register** explaining the OA's or OST component's responses to and analysis of the hearing record, setting forth the modifications to the proposed rule, and providing an additional reasonable opportunity for public comment on the proposed modified rule.

(8) *Relationship to interagency process.* The formal hearing procedures under this section shall not impede or interfere with OIRA's interagency review process for the proposed rulemaking.

(e) *Additional requirements for final rules.* (1) In addition to the requirements set forth in § 5.13(k), the preamble to a final economically significant rule or a final high-impact rule shall include:

(i) A discussion explaining the OA's or OST component's reasoned final determination that the rule as adopted is necessary to achieve the objective identified in the NPRM in light of the full administrative record and does not deviate from the metrics previously identified by the OA or OST component for measuring progress toward that objective; and

(ii) In accordance with paragraph (d)(7)(iii) of this section, the OA's or OST component's responses to and analysis of the record of any formal hearing held under paragraph (d) of this section.

(2) Absent exceptional circumstances and unless approved by the RRTF or Secretary (in consultation with OIRA, as appropriate), the OA or OST component shall adopt as a final economically significant rule or final high-impact rule

the least costly regulatory alternative that achieves the relevant objectives.

(f) *Additional requirements for retrospective reviews.* For each economically significant rule or high-impact rule, the responsible OA or OST component shall publish a regulatory impact report in the **Federal Register** every 5 years after the effective date of the rule while the rule remains in effect. The regulatory impact report shall include, at a minimum:

(1) An assessment of the impacts, including any costs, of the rule on regulated entities;

(2) A determination about how the actual costs and benefits of the rule have varied from those anticipated at the time the rule was issued; and

(3) An assessment of the effectiveness and benefits of the rule in producing the regulatory objectives it was adopted to achieve.

(g) *Waiver and modification.* The procedures required by this section may be waived or modified as necessary with the approval of the RRO or the Secretary.

§ 5.19 Public contacts in informal rulemaking.

(a) *Agency contacts with the public during informal rulemakings conducted in accordance with 5 U.S.C. 553.* (1) DOT personnel may have meetings or other contacts with interested members of the public concerning an informal rulemaking under 5 U.S.C. 553 or similar procedures at any stage of the rulemaking process, provided the substance of material information submitted by the public that DOT relies on in proposing or finalizing the rule is adequately disclosed and described in a memorandum in the public rulemaking docket such that all interested parties have notice of the information and an opportunity to comment on its accuracy and relevance. The responsible OA or OST component may either prepare the memorandum or ask the party requesting the meeting or initiating the contact to submit the memorandum memorializing the communication.

(2) DOT personnel should avoid giving persons outside the Executive Branch information regarding the rulemaking that is not available generally to the public.

(3) If DOT receives an unusually large number of requests for meetings with interested members of the public during the comment period for a proposed rule or after the close of the comment period, the issuing OA or component of OST should consider whether there is a need to extend or reopen the comment period, to allow for submission of a second round of "reply comments," or

to hold a public meeting on the proposed rule.

(4) If the issuing OA or OST component meets with interested persons on the rulemaking after the close of the comment period, it should be open to giving other interested persons a similar opportunity to meet.

(5) If DOT learns of significant new information, such as new studies or data, after the close of the comment period that the issuing OA or OST component wishes to rely upon in finalizing the rule, the OA or OST component should reopen the comment period to give the public an opportunity to comment on the new information. If the new information is likely to result in a change to the rule that is not within the scope of the NPRM, the OA or OST component should consider issuing a Supplemental NPRM to ensure that the final rule represents a logical outgrowth of DOT's proposal.

(b) *Contacts during OIRA review.* (1) E.O. 12866 and E.O. 13563 lay out the procedures for review of significant regulations by OIRA, which include a process for members of the public to request meetings with OIRA regarding rules under OIRA review. Per E.O. 12866, OIRA invites the Department to attend these meetings. The Office of Regulation and Legislation will forward these invitations to the appropriate regulatory contact in the OA or component of OST responsible for issuing the regulation.

(2) If the issuing OA or OST component wishes to attend the OIRA-sponsored meeting or if its participation is determined to be necessary by the Office of Regulation and Legislation, the regulatory contact should identify to the Office of Regulation and Legislation up to two individuals from the OA or OST component who will attend the meeting along with a representative from the Office of Regulation and Legislation. Attendance at these meetings can be by phone or in person. These OIRA meetings are generally listening sessions for DOT.

(3) The attending DOT personnel should refrain from debating particular points regarding the rulemaking and should avoid disclosing the contents of a document or proposed regulatory action that has not yet been disclosed to the public, but may answer questions of fact regarding a public document.

(4) Following the OIRA meeting, the attendee(s) from the issuing OA or OST component will draft a summary report of the meeting and submit it to the Office of Regulation and Legislation for review. After the report is reviewed and finalized in coordination with the Office of Regulation and Legislation, the

responsible OA or OST component will place the final report in the rulemaking docket.

§ 5.21 Policy updates and revisions.

This subpart shall be reviewed from time to time to reflect improvements in the rulemaking process or changes in Administration policy.

Subpart C—Guidance Procedures

§ 5.25 General.

(a) This subpart governs all DOT employees and contractors involved with all phases of issuing DOT guidance documents.

(b) Subject to the qualifications and exemptions contained in this subpart, these procedures apply to all guidance documents issued by all components of the Department after the effective date of this subpart.

(c) For purposes of this subpart, the term *guidance document* includes an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation, but which is not intended to have the force or effect of law in its own right and is not otherwise required by statute to satisfy the rulemaking procedures specified in 5 U.S.C. 553 or 5 U.S.C. 556. The term is not confined to formal written documents; guidance may come in a variety of forms, including (but not limited to) letters, memoranda, circulars, bulletins, advisories, and may include video, audio, and Web-based formats. See OMB Bulletin 07–02, “Agency Good Guidance Practices,” (January 25, 2007) (“OMB Good Guidance Bulletin”).

(d) This subpart does not apply to:

- (1) Rules exempt from rulemaking requirements under 5 U.S.C. 553(a);
- (2) Rules of agency organization, procedure, or practice;
- (3) Decisions of agency adjudications under 5 U.S.C. 554 or similar statutory provisions;
- (4) Internal executive branch legal advice or legal advisory opinions addressed to executive branch officials;
- (5) Agency statements of specific applicability, including advisory or legal opinions directed to particular parties about circumstance-specific questions (e.g., case or investigatory letters responding to complaints, warning letters), notices regarding particular locations or facilities (e.g., guidance pertaining to the use, operation, or control of a government facility or property), and correspondence with individual persons

or entities (e.g., congressional correspondence), except documents ostensibly directed to a particular party but designed to guide the conduct of the broader regulated public;

(6) Legal briefs, other court filings, or positions taken in litigation or enforcement actions;

(7) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation, including speeches and individual presentations, editorials, media interviews, press materials, or congressional testimony that do not set forth for the first time a new regulatory policy;

(8) Guidance pertaining to military or foreign affairs functions;

(9) Grant solicitations and awards;

(10) Contract solicitations and awards; or

(11) Purely internal agency policies or guidance directed solely to DOT employees or contractors or to other Federal agencies that are not intended to have substantial future effect on the behavior of regulated parties.

§ 5.27 Review and clearance by Chief Counsels and the Office of the General Counsel.

All DOT guidance documents, as defined in § 5.25(c), require review and clearance in accordance with this subpart.

(a) Guidance proposed to be issued by an OA of the Department must be reviewed and cleared by the OA’s Office of Chief Counsel. In addition, as provided elsewhere in this subpart, some OA guidance documents will require review and clearance by OGC.

(b) Guidance proposed to be issued by a component of OST must be reviewed and cleared by OGC.

§ 5.29 Requirements for clearance.

DOT’s review and clearance of guidance shall ensure that each guidance document proposed to be issued by an OA or component of OST satisfies the following requirements:

(a) The guidance document complies with all relevant statutes and regulation (including any statutory deadlines for agency action);

(b) The guidance document identifies or includes:

- (1) The term “guidance” or its functional equivalent;
- (2) The issuing OA or component of OST;
- (3) A unique identifier, including, at a minimum, the date of issuance and title of the document and its Z–RIN, if applicable;
- (4) The activity or entities to which the guidance applies;

(5) Citations to applicable statutes and regulations;

(6) A statement noting whether the guidance is intended to revise or replace any previously issued guidance and, if so, sufficient information to identify the previously issued guidance; and

(7) A short summary of the subject matter covered in the guidance document at the top of the document.

(c) The guidance document avoids using mandatory language, such as “shall,” “must,” “required,” or “requirement,” unless the language is describing an established statutory or regulatory requirement or is addressed to DOT staff and will not foreclose the Department’s consideration of positions advanced by affected private parties;

(d) The guidance document is written in plain and understandable English; and

(e) All guidance documents include a clear and prominent statement declaring that the contents of the document do not have the force and effect of law and are not meant to bind the public in any way, and the document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

§ 5.31 Public access to effective guidance documents.

Each OA and component of OST responsible for issuing guidance documents shall:

(a) Ensure all effective guidance documents, identified by a unique identifier which includes, at a minimum, the document’s title and date of issuance or revision and its Z–RIN, if applicable, are on its website in a single, searchable, indexed database, and available to the public in accordance with 49 CFR 7.12(a)(2);

(b) Note on its website that guidance documents lack the force and effect of law, except as authorized by law or as incorporated into a contract;

(c) Maintain and advertise on its website a means for the public to comment electronically on any guidance documents that are subject to the notice-and-comment procedures described in § 5.39 and to submit requests electronically for issuance, reconsideration, modification, or rescission of guidance documents in accordance with § 5.41; and

(d) Designate an office to receive and address complaints from the public that the OA or OST component is not following the requirements of OMB’s Good Guidance Bulletin or is improperly treating a guidance document as a binding requirement.

§ 5.33 Good faith cost estimates.

Even though not legally binding, some agency guidance may result in a substantial economic impact. For example, the issuance of agency guidance may induce private parties to alter their conduct to conform to recommended standards or practices, thereby incurring costs beyond the costs of complying with existing statutes and regulations. While it may be difficult to predict with precision the economic impact of voluntary guidance, the proposing OA or component of OST shall, to the extent practicable, make a good faith effort to estimate the likely economic cost impact of the guidance document to determine whether the document might be significant. When an OA or OST component is assessing or explaining whether it believes a guidance document is significant, it should, at a minimum, provide the same level of analysis that would be required for a major determination under the Congressional Review Act.³ When an agency determines that a guidance document will be economically significant, the OA or OST component should conduct and publish a Regulatory Impact Analysis of the sort that would accompany an economically significant rulemaking, to the extent reasonably possible.

§ 5.35 Approved procedures for guidance documents identified as “significant” or “otherwise of importance to the Department’s interests.”

(a) For guidance proposed to be issued by an OA, if there is a reasonable possibility the guidance may be considered “significant” or “otherwise of importance to the Department’s interests” within the meaning of § 5.37 or if the OA is uncertain whether the guidance may qualify as such, the OA should email a copy of the proposed guidance document (or a summary of it) to the Office of Regulation and Legislation for review and further direction before issuance. Each proposed DOT guidance document determined to be significant or otherwise of importance to the Department’s interests must be approved by the Secretary before issuance. In such instances, the Office of Regulation and Legislation will request that the proposing OA or component of OST obtain a Z–RIN for departmental review and clearance through the New Environment for Information and Leadership on Rules (NEIL Rules), or a successor data management system, and

OGC will coordinate submission of the proposed guidance document to the Secretary for approval.

(b) As with significant regulations, OGC will submit significant DOT guidance documents to OMB for coordinated review. In addition, OGC may determine that it is appropriate to coordinate with OMB in the review of guidance documents that are otherwise of importance to the Department’s interests.

(c) If the guidance document is determined not to be either significant or otherwise of importance to the Department’s interests within the meaning of § 5.37, the Office of Regulation and Legislation will advise the proposing OA or component of OST to proceed with issuance of the guidance either through the Office of the Executive Secretariat (for **Federal Register** notices) or through its standard clearance process. For each guidance document coordinated through the Office of the Executive Secretariat, the issuing OA or component of OST should include a statement in the action memorandum indicating that the guidance document has been reviewed and cleared in accordance with this process.

§ 5.37 Definitions of “significant guidance document” and guidance documents that are “otherwise of importance to the Department’s interests.”

(a) The term “significant guidance document” means a guidance document that will be disseminated to regulated entities or the general public and that may reasonably be anticipated:

(1) To lead to an annual effect on the economy of \$100 million or more or adversely affect in a material way the U.S. economy, a sector of the U.S. economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) To create serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency;

(3) To alter materially the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) To raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in E.O. 12866, as further amended.

(b) The term “significant guidance document” does not include the categories of documents excluded by § 5.25(b) or any other category of guidance documents exempted in writing by OGC in consultation with

OMB’s Office of Information and Regulatory Affairs (OIRA).

(c) Significant and economically significant guidance documents must be reviewed by OIRA under E.O. 12866 before issuance; and must demonstrate compliance with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in E.O. 12866, E.O. 13563, E.O. 13609, E.O. 13777, and E.O. 14192.

(d) Even if not “significant,” a guidance document will be considered “otherwise of importance to the Department’s interests” within the meaning of this paragraph if it may reasonably be anticipated:

(1) To relate to a major program, policy, or activity of the Department or a high-profile issue pending for decision before the Department;

(2) To involve one of the Secretary’s top policy priorities;

(3) To garner significant press or congressional attention; or

(4) To raise significant questions or concerns from constituencies of importance to the Department, such as Committees of Congress, States or Indian tribes, the White House or other departments of the Executive Branch, courts, consumer or public interest groups, or leading representatives of industry.

§ 5.39 Designation procedures.

(a) The Office of Regulation and Legislation may request an OA or OST component to prepare a designation request for certain guidance documents. Designation requests must include the following information:

(1) A summary of the guidance document; and

(2) The OA or OST component’s recommended designation of “not significant,” “significant,” or “economically significant,” as well as a justification for that designation.

(b) Except as otherwise provided in paragraph (c) of this section, the Office of Regulation and Legislation will seek significance determinations from OIRA for certain guidance documents, as appropriate, in the same manner as for rulemakings. Prior to publishing these guidance documents, and with sufficient time to allow OIRA to review the document in the event that a significance determination is made, the Office of Regulation and Legislation should provide OIRA with an opportunity to review the designation request or the guidance document, if requested, to determine if it meets the definition of “significant” or “economically significant” under Executive Order 13891.

³ See OMB Memorandum M–19–14, Guidance on Compliance with the Congressional Review Act (April 11, 2019).

(c) Unless they present novel issues, significant risks, interagency considerations, unusual circumstances, or other unique issues, the categories of guidance documents found in Appendix A do not require designation by OIRA.

§ 5.41 Notice-and-comment procedures.

(a) Except as provided in paragraph (b) of this section, all proposed DOT guidance documents determined to be a “significant guidance document” within the meaning of § 5.37 shall be subject to the following informal notice-and-comment procedures. The issuing OA or component of OST shall publish a notice in the **Federal Register** announcing that a draft of the proposed guidance document is publicly available, shall post the draft guidance document on its website, shall invite public comment on the draft document for a minimum of 30 days, and shall prepare and post a public response to major concerns raised in the comments, as appropriate, on its website, either before or when the guidance document is finalized and issued.

(b) The requirements of paragraph (a) of this section will not apply to any significant guidance document or categories of significant guidance documents for which OGC finds, in consultation with OIRA, the proposing OA or component of OST, and the Secretary, good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest (and incorporates the finding of good cause and a brief statement of reasons therefor in the guidance issued). Unless OGC advises otherwise in writing, the categories of guidance documents listed in Appendix A will be exempt from the requirements of paragraph (a) of this section.

(c) Where appropriate, OGC or the proposing OA or component of OST may recommend to the Secretary that a particular guidance document that is otherwise of importance to the Department’s interests shall also be subject to the informal notice-and-comment procedures described in paragraph (a) of this section.

§ 5.43 Petitions for guidance.

Any person may petition an OA or OST component to withdraw or modify a particular guidance document by using the procedures found in § 5.13(c). The OA or OST component should respond to all requests in a timely manner, but no later than 90 days after receipt of the request.

§ 5.45 Rescinded guidance.

No OA or component of OST may cite, use, or rely on guidance documents

that are rescinded, except to establish historical facts.

§ 5.47 Exigent circumstances.

In emergency situations or when the issuing OA or component of OST is required by statutory deadline or court order to act more quickly than normal review procedures allow, the issuing OA or component of OST shall coordinate with OGC to notify OIRA as soon as possible and, to the extent practicable, shall comply with the requirements of this subpart at the earliest opportunity. Wherever practicable, the issuing OA or component of OST should schedule its proceedings to permit sufficient time to comply with the procedures set forth in this subpart.

§ 5.49 Reports to Congress and GAO.

Unless otherwise determined in writing by OGC, it is the policy of the Department that upon issuing a guidance document determined to be “significant” within the meaning of section 5.37, the issuing OA or component of OST will submit a report to Congress and GAO in accordance with the procedures described in 5 U.S.C. 801 (the “Congressional Review Act”).

Subpart D—Enforcement Procedures

§ 5.53 General.

The requirements set forth in this subpart apply to all enforcement actions taken by each DOT operating administration (OA) and each component of the Office of the Secretary of Transportation (OST) with enforcement authority.

§ 5.55 Enforcement attorney responsibilities.

All attorneys of OST and the OAs involved in enforcement activities are responsible for carrying out and adhering to the policies set forth in this subpart. All supervising attorneys with responsibility over enforcement adjudications, administrative enforcement proceedings, and other enforcement actions are accountable for the successful implementation of these policies and for reviewing and monitoring compliance with this subpart by the employees under their supervision. These responsibilities include taking all steps necessary to ensure that the Department provides a fair and impartial process at each stage of enforcement actions. The Office of Litigation and Enforcement within the Office of the General Counsel (OGC) is delegated authority to interpret this subpart and provide guidance on compliance with its policies. The Office

of Litigation and Enforcement shall exercise this authority in coordination with the Chief Counsels of the OAs and subject to the direction and supervision of the General Counsel.

§ 5.57 Definitions.

Administrative enforcement proceeding is to be interpreted broadly, consistent with applicable law and regulations, and includes, but is not limited to, administrative civil penalty proceedings; proceedings involving potential cease-and-desist or corrective action orders; preemption proceedings; safety rating appeals; pilot and mechanic revocation proceedings; grant suspensions, terminations, or other actions to remedy violations of grant conditions; and similar enforcement-related proceedings.

Administrative law judges (ALJs) are adjudicatory hearing officers appointed by a department head to serve as triers of fact in formal and informal administrative proceedings and to issue recommended decisions in adjudications. At DOT, ALJs are to be appointed by the Secretary of Transportation and assigned to the Office of Hearings.

Adversarial personnel are those persons who represent a party (including the agency) or a position or interest at issue in an enforcement action taken or proposed to be taken by or for an agency. They include the agency’s employees who investigate, prosecute, or advocate on behalf of the agency in connection with the enforcement action.

Decisional personnel are employees of the agency responsible for issuing decisions arising out of the agency’s enforcement actions, which include formal or informal enforcement adjudications. These employees include ALJs, hearing officers, Administrative Judges (AJs), and agency employees who advise and assist such decision makers.

Due process means procedural rights and protections afforded by the Government to affected parties to provide for a fair process in the enforcement of legal obligations, including in connection with agency actions determining a violation of law, assessing a civil penalty, requiring a party to take corrective action or to cease and desist from conduct, or otherwise depriving a party of a property or liberty interest. Due process always includes two essential elements for a party subject to an agency enforcement action: adequate notice of the proposed agency enforcement action and a meaningful opportunity to be heard by the agency decision maker.

Enabling act means the Federal statute that defines the scope of an agency's authority and authorizes it to undertake an enforcement action.

Enforcement action means an action taken by the Department upon its own initiative or at the request of an affected party in furtherance of its statutory authority and responsibility to execute and ensure compliance with applicable laws. Such actions include administrative enforcement proceedings, enforcement adjudications, and judicial enforcement proceedings.

Enforcement adjudication is the administrative process undertaken by the agency to resolve the legal rights and obligations of specific parties with regard to a particular enforcement issue pending before an agency. The outcome of an enforcement adjudication is a formal or informal decision issued by an appropriate decision maker. Enforcement adjudications require the opportunity for participation by directly affected parties and the right to present a response to a decision maker, including relevant evidence and reasoned arguments.

Formal enforcement adjudication means an adjudication required by statute to be conducted "on the record." The words "on the record" generally refer to a decision issued by an agency after a proceeding conducted before an ALJ (or the agency head sitting as judge or other presiding employee who is not an ALJ) using trial-type procedures. It is usually the agency's enabling act, not the APA, that determines whether a formal hearing is required.

Informal enforcement adjudication means an adjudication that is not required to be conducted "on the record" with trial-like procedures. The APA provides agencies with a substantial degree of flexibility in establishing practices and procedures for the conduct of informal adjudications.

Investigators, inspectors, and special agents refer to those agency employees or agents responsible for the investigation and review of an affected party's compliance with the regulations and other legal requirements administered by the agency.

Judicial enforcement proceeding means a proceeding conducted in an Article III court, in which the Department is seeking to enforce an applicable statute, regulation, or order.

Procedural regulations are agency regulations setting forth the procedures to be followed during adjudications consistent with the agency's enabling act, the APA, and other applicable laws.

§ 5.59 Enforcement policy generally.

It is the policy of the Department to provide affected parties appropriate due process in all enforcement actions. In the course of such actions and proceedings, the Department's conduct must be fair and free of bias and should conclude with a well-documented decision as to violations alleged and any violations found to have been committed, the penalties or corrective actions to be imposed for such violations, and the steps needed to ensure future compliance. It is in the public interest and fundamental to good government that the Department carry out its enforcement responsibilities in a fair and just manner. No person should be subject to an administrative enforcement action or adjudication absent prior public notice of both the enforcing agency's jurisdiction over particular conduct and the legal standards applicable to that conduct. The Department should, where feasible, foster greater private-sector cooperation in enforcement, promote information sharing with the private sector, and establish predictable outcomes for private conduct.

§ 5.61 Investigative functions.

DOT's investigative powers must be used in a manner consistent with due process, basic fairness, and respect for individual liberty and private property. Congress has granted the Secretary (and by delegation from the Secretary to the OAs) and the FAA Administrator broad investigative powers, and it is an essential part of DOT's safety and consumer protection mission to investigate compliance with the statutes and regulations administered by the Department, including through periodic inspections. The OAs and components of OST with enforcement authority are appropriately given broad discretion in determining whether and how to conduct investigations, periodic inspections, and other compliance reviews, and these investigative functions are often performed by agency investigators or inspectors in the field. The employees and contractors of DOT responsible for inspections and other investigative functions must not use these authorities as a game of "gotcha" with regulated entities and should follow existing statutes and regulations. Rather, to the maximum extent consistent with protecting the integrity of the investigation, the representatives of DOT should promptly disclose to the affected parties the reasons for the investigative review and any compliance issues identified or findings made in the course of the review. The responsible enforcement attorneys

within the relevant OA or component of OST shall provide effective legal guidance to investigators and inspectors to ensure adherence to the policies and procedures set forth in this part.

§ 5.63 Clear legal foundation.

All DOT enforcement actions against affected parties seeking redress for asserted violations of a statute or regulation must be founded on a grant of statutory authority in the relevant enabling act. The authority to prosecute the asserted violation and the authority to impose monetary penalties, if sought, must be clear in the text of the statute. Unless the terms of a relevant statute, or of a regulation with government-wide applicability such as 2 CFR part 180, clearly and expressly authorize the OA or component of OST to enforce the relevant legal requirement directly through an administrative enforcement proceeding, the proper forum for the enforcement action is Federal court, and the enforcement action must be initiated in court by attorneys of the Department of Justice acting in coordination with DOT counsel.

§ 5.65 Proper exercise of prosecutorial and enforcement discretion.

The Department's attorneys and policy makers have broad discretion in deciding whether to initiate an enforcement action. Nevertheless, in exercising discretion to initiate an enforcement action and in the pursuit of that action, agency counsel must not adopt or rely upon overly broad or unduly expansive interpretations of the governing statutes or regulations and should ensure that the law is interpreted and applied according to its text. All decisions by DOT to prosecute or not to prosecute an enforcement action should be based upon a reasonable interpretation of the law about which the public has received fair notice and should be made with due regard for fairness, the facts and evidence adduced through an appropriate investigation or compliance review, the availability of scarce resources, the administrative needs of the responsible OA or OST component, Administration policy, and the importance of the issues involved to the fulfillment of the Department's statutory responsibilities.

§ 5.67 Duty to review for legal sufficiency.

In accordance with established agency procedures, enforcement actions should be reviewed by the responsible agency component for legal sufficiency under applicable statutes and regulations, judicial decisions, and other appropriate

authorities.⁴ If, in the opinion of the responsible agency component or its counsel, the evidence is sufficient to support the assertion of violation(s), then the agency may proceed with the enforcement action. If the evidence is not sufficient to support the proposed enforcement action, the agency may modify or amend the charges and bring an enforcement action in line with the evidence or return the case to the enforcement staff for additional investigation. The reviewing attorney or agency component may also recommend the closure of the case for lack of sufficient evidence.⁵ The Department will not initiate enforcement actions as a “fishing expedition” to find potential violations of law in the absence of sufficient evidence in hand to support the assertion of a violation.

§ 5.69 Fair notice.

Notice to the regulated party is a due process requirement. All documents initiating an enforcement action shall ensure notice reasonably calculated to inform the regulated party of the nature and basis for the action being taken to allow an opportunity to challenge the action and to avoid unfair surprise. The notice should include legal authorities, statutes or regulations allegedly violated, basic issues, key facts alleged, a clear statement of the grounds for the agency’s action, and a reference to or recitation of the procedural rights available to the party to challenge the agency action, including appropriate procedure for seeking administrative and judicial review.

§ 5.71 Separation of functions.

For those OAs or OST components whose regulations provide for a separation of decisional personnel from adversarial personnel in an

administrative enforcement proceeding, any agency personnel who have taken an active part in investigating, prosecuting, or advocating in the enforcement action should not serve as a decision maker and should not advise or assist the decision maker in that same or a related case. In such proceedings, the agency’s adversarial personnel should not furnish *ex parte* advice or factual materials to decisional personnel. When and as necessary, agency employees involved in enforcement actions should consult legal counsel and applicable regulations and ethical standards for further guidance on these requirements.

§ 5.73 Avoiding bias.

Consistent with all applicable laws and ethical standards relating to recusals and disqualifications, no Federal employee or contractor may participate in a DOT enforcement action in any capacity, including as ALJ, adjudication counsel, adversarial personnel, or decisional personnel, if that person has:

- (a) A financial or other personal interest that would be affected by the outcome of the enforcement action;
- (b) Personal animus against a party to the action or against a group to which a party belongs;
- (c) Prejudgment of the adjudicative facts at issue in the proceeding; or
- (d) Any other prohibited conflict of interest.

§ 5.75 Representation of regulated parties.

Subject to ethical standards governing post-Federal employment and applicable State bar requirements, regulated entities are free to choose their representatives—attorney or non-attorney—who will represent them before an OST component or OA. Each OST component or OA should assist *pro se* litigants and those who are unfamiliar with our procedures to the extent practical and allowable under ethical and State bar requirements.

§ 5.77 Formal enforcement adjudications.

When a case is referred by the decision maker to the Office of Hearings or another designated hearing officer for formal adjudication (an “on the record” hearing), the assigned ALJ or hearing officer should use trial-type procedures consistent with applicable legal provisions. In formal adjudication, the APA requires findings and reasons on all material issues of fact, law, or discretion (policy). In all formal adjudications, the responsible OA or component of OST shall adhere faithfully and consistently to the procedures established in the relevant

procedural regulations. Agency counsel engaged in formal adjudications on behalf of DOT are accountable for compliance with the requirements of this subpart.

§ 5.79 Informal enforcement adjudications.

Even though informal adjudications do not require trial-type procedures, the responsible OA or component of OST should ordinarily afford the applicant or the regulated entity that is the subject of the adjudication (as the case may be), as well as other directly affected parties (if any), adequate notice and an opportunity to be heard on the matter under review, either through an oral presentation or through a written submission. Except in cases of a safety emergency or when the clear text of the relevant enabling act or government-wide regulation, such as 2 CFR part 180, expressly authorizes exigent enforcement action without a prior hearing, the responsible OA or component of OST shall give the regulated entity appropriate advance notice of the proposed enforcement action and shall advise the entity of the opportunity for an informal hearing in a manner and sufficiently in advance that the entity’s representatives have a fair opportunity to prepare for and to participate in the hearing, whether in person or by writing. The notice should be in plain language and, when appropriate, contain basic information about the applicable adjudicatory process. In all informal adjudications, the responsible OA or component of OST shall adhere faithfully and consistently to the procedures established in any applicable procedural regulations.

§ 5.81 The hearing record.

In formal hearings, the agency shall comply with the APA and shall include in the record of the hearing the testimony, exhibits, papers, and requests that are filed by parties to the hearing, in addition to the ALJ’s or hearing officer’s decision or the decision on appeal. For informal hearings, the record shall include the information that the agency considered “at the time it reached the decision” and its contemporaneous findings. The administrative record does not include privileged documents, such as attorney-client communications or deliberative or draft documents. Agencies are encouraged to make the record available to all interested parties to the fullest extent allowed by law, consistent with appropriate protections for the handling of confidential information.

⁴ Though it may not always be feasible or necessary for agency personnel to consult with counsel before initiating an enforcement action, particularly since the OAs utilize a variety of enforcement personnel to staff their enforcement programs, including personnel located in the field, agency personnel should ensure that the basis for an enforcement action is legally sufficient before initiating it.

⁵ Attorneys at many of the OAs issue Notices of Probable Violations, Notice of Claims, or Demand Letters to initiate enforcement proceedings. At other OAs, these documents are issued by non-attorney program officials. The duty to review applies equally to all agency attorneys whether deciding to issue a document to initiate enforcement proceedings or to continue to prosecute based upon a document previously issued by a non-attorney program official. In the latter situation, it is important that attorneys provide legal input, training, and review of the work product of the program office. At all times, DOT attorneys are encouraged to exercise their best professional judgment in deciding to initiate, continue, or recommend closing a case, consistent with applicable legal and ethical standards.

§ 5.83 Contacts with the public.

After the initiation of an enforcement proceeding, communications between persons outside the agency and agency decisional personnel should occur on the record. Consistent with applicable regulations and procedures, if oral, written, or electronic ex parte communications occur, they should be placed on the record as soon as practicable. Notice should be given to the parties that such communications are being placed into the record. When performing departmental functions, all DOT employees should properly identify themselves as employees of the Department, including the OA or component of OST in which they work; they should properly show official identification if the contact is made in person; and they should clearly state the nature of their business and the reasons for the contact. All contacts by DOT personnel with the public shall be professional, fair, honest, direct, and consistent with all applicable ethical standards.

§ 5.85 Duty to disclose exculpatory evidence.

It is the Department's policy that each responsible OA or component of OST will voluntarily follow in its civil enforcement actions the principle articulated in *Brady v. Maryland*,⁶ in which the Supreme Court held that the Due Process Clause of the Fifth Amendment requires disclosure of exculpatory evidence "material to guilt or punishment" known to the government but unknown to the defendant in criminal cases. Adopting the "Brady rule" and making affirmative disclosures of exculpatory evidence in all enforcement actions will contribute to the Department's goal of open and fair investigations and administrative enforcement proceedings. This policy requires the agency's adversarial personnel to disclose materially exculpatory evidence in the agency's possession to the representatives of the regulated entity whose conduct is the subject of the enforcement action. These affirmative disclosures should include any material evidence known to the Department's adversarial personnel that may be favorable to the regulated entity in the enforcement action—including evidence that tends to negate or diminish the party's responsibility for a violation or that could be relied upon to reduce the potential fine or other penalties. The regulated entity need not request such favorable information; it should be disclosed as a matter of course. Agency counsel should

recommend appropriate remedies to DOT decision makers where a *Brady* rule violation has occurred, using the factors identified by courts when applying the *Brady* rule in the criminal context.

§ 5.87 Use of guidance documents in administrative enforcement cases.

Guidance documents cannot create binding requirements that do not already exist by statute or regulation. Accordingly, the Department may not use its enforcement authority to convert agency guidance documents into binding rules. Likewise, enforcement attorneys may not use noncompliance with guidance documents as a basis for proving violations of applicable law. Guidance documents can do no more, with respect to prohibition of conduct, than articulate the agency or Department's understanding of how a statute or regulation applies to particular circumstances. The Department may cite a guidance document to convey this understanding in an administrative enforcement action or adjudication only if it has notified the public of such document in advance through publication in the **Federal Register** or on the Department's website. Additional procedures related to guidance documents are contained in part 5, subpart C, of this chapter.

§ 5.89 Alternative Dispute Resolution (ADR).

The OAs and the components of OST with enforcement authority are encouraged to use ADR to resolve enforcement cases where appropriate. The Department's ADR policy describes a variety of problem-solving processes that can be used in lieu of litigation or other adversarial proceedings to resolve disputes over compliance.

§ 5.91 Duty to adjudicate proceedings promptly.

Agency attorneys should promptly initiate proceedings or prosecute matters referred to them. In addition, cases should not be allowed to linger unduly after the adjudicatory process has begun. Attorneys should seek to settle matters where possible or refer the case to a decision maker for proper disposition when settlement negotiations have reached an impasse. Absent the showing of unusual or extenuating circumstances, or if necessitated for good cause, each OST component or OA with enforcement authority shall apply limiting principles to the duration of investigations. On-site investigations should generally be limited to 10 business days or less and enforcement staff shall make a decision on pursuing an administrative action

within 30 days of the completion of the inspection or investigation and commence an enforcement action as soon as possible thereafter—unless otherwise required by statute.

§ 5.93 Termination of investigation.

When the facts disclosed by an investigation indicate that further action is not warranted, the OST component or OA with enforcement authority will close the investigation without prejudice to further investigation and will notify the person being investigated of the decision. This notification requirement should only be applied where a subject of an investigation has previously been made aware of the investigation, or other pre-enforcement activity. Nothing in this section precludes civil enforcement action at a later time related to the findings of the investigation.

§ 5.95 Initiation of additional investigations.

OST components and OAs should not initiate additional investigations of a party after commencing an enforcement action absent a showing of good cause (e.g., new complaints, accidents, or incidents), except when the additional investigation is prompted by facts uncovered in the initial investigation.

§ 5.97 Agency decisions.

Agency counsel may be used in the conduct of informal hearings and to prepare initial recommended decisions for the agency decision maker. The agency must notify the directly affected parties of its decision, and the decision must reasonably inform the parties in a timely manner of the additional procedural rights available to them.

§ 5.99 Settlements.

Settlement conferences may be handled by appropriate agency counsel without the involvement of the agency's decision maker. Once a matter is settled by compromise, that agreement should be reviewed and accepted by an appropriate supervisor. The responsible OA or component of OST should issue an order adopting the terms of the settlement agreement as the final agency decision, where and as authorized by statute or regulation. No DOT settlement agreement, consent order, or consent decree should be used to adopt or impose new regulatory obligations for entities that are not parties to the settlement. Unless required by law, settlement agreements are not confidential and are subject to public disclosure.

⁶ *Brady v. Maryland*, 373 U.S. 83 (1963).

§ 5.101 OGC approval required for certain settlement terms.

Whenever a proposed settlement agreement, consent order, or consent decree would impose behavioral commitments or obligations on a regulated entity that go beyond the requirements of relevant statutes and regulations, including the appointment of an independent monitor or the imposition of novel, unprecedented, or extraordinary obligations, the responsible OA or OST component should obtain the approval of OGC before finalizing the settlement agreement, consent order, or consent decree.

§ 5.103 Basis for civil penalties and disclosures thereof.

No civil penalties will be sought in any DOT enforcement action except when and as supported by clear statutory authority and sufficient findings of fact. Where applicable statutes vest the agency with discretion with regard to the amount or type of penalty sought or imposed, the penalty should reflect due regard for fairness, the scale of the violation, the violator's knowledge and intent, and any mitigating factors (such as whether the violator is a small business). The assessment of proposed or final penalties in a DOT enforcement action shall be communicated in writing to the subject of the action, along with a full explanation of the basis for the calculation of asserted penalties. In addition, the agency shall voluntarily share penalty calculation worksheets, manuals, charts, or other appropriate materials that shed light on the way penalties are calculated to ensure fairness in the process and to encourage a negotiated resolution where possible.

§ 5.105 Publication of decisions.

The agency's decisions in informal adjudications are not required to be published under the APA. However, where the agency intends to rely on its opinions in future cases, those opinions must generally be made available on agency websites or in agency reading rooms (and publication on Westlaw, Lexis, or similar legal services is also highly recommended). The APA has been read to require that opinions in formal adjudications must be made "available for public inspection and copying." Agencies are strongly encouraged to publish all formal decisions on Westlaw, Lexis, or similar legal services.

§ 5.107 Coordination with the Office of Inspector General on criminal matters.

All Department employees must comply with the operative DOT Order(s) addressing referrals of potential criminal matters to the Office of Inspector General (OIG), consistent with the respective roles of the OIG and DOT OAs and components of OST in criminal investigations and the OIG's investigative procedures under the Inspector General Act of 1978, as amended.

§ 5.109 Standard operating procedures.

All legal offices that participate in or render advice in connection with enforcement actions should, to the extent practicable, operate under standard operating procedures. Such offices include, but are not limited to, those that oversee investigatory matters and serve as adversarial personnel in the agency's enforcement matters. These standard operating procedures, which can be contained in manuals, can be used to outline step-by-step requirements for attorney actions in the investigative stage and the prosecution stage; the role of an attorney as counselor, adjudicator, or litigator; the rulemaking process; and the process for issuance of guidance documents, letters of interpretation, preemption decisions, legislative guidance, contract administration, and a variety of other legal functions performed in the legal office. Each DOT OA and each OST component that conducts administrative inspections shall operate under those procedures governing such inspections and shall adopt such administrative inspection procedures if they do not exist. Those procedures shall be updated in a timely manner as needed.

§ 5.111 Cooperative Information Sharing.

The Department, as appropriate and to the extent practicable and permitted by law, shall:

- (a) Encourage voluntary self-reporting of regulatory violations by regulated parties in exchange for reduction or waivers of civil penalties;
- (b) Encourage voluntary information sharing by regulated parties; and
- (c) Provide pre-enforcement rulings to regulated parties (formal and informal interpretations).

§ 5.113 Small Business Regulatory Enforcement Fairness Act (SBREFA).

The Department shall comply with the terms of SBREFA when conducting administrative inspections and adjudications, including section 223 of SBREFA (reduction or waivers of civil penalties, where appropriate). The Department will also cooperate with the

Small Business Administration (SBA) when a small business files a comment or complaint related to DOT's inspection authority and when requested to answer SBREFA compliance requests.

§ 5.115 Referral of matters for judicial enforcement.

In considering whether to refer a matter for judicial enforcement by the Department of Justice, DOT attorneys should consult the applicable procedures set forth by the General Counsel, including in the document entitled "Partnering for Excellence: Coordination of Legal Work Within the U.S. Department of Transportation," and any update or supplement to such document issued hereafter by the General Counsel. The specific procedures for initiating an affirmative litigation request are currently found in the coordination document at Section 11.B.I., "Affirmative Litigation Requests to the Department of Justice." In most instances, requests to commence affirmative litigation must be reviewed by OGC, with such reviews coordinated through the Office of Litigation and Enforcement.

§ 5.117 Publicly available decisional quality and efficiency metrics.

Each OST component or OA should annually identify, collect, and make publicly available decisional quality and efficiency metrics regarding adjudication under administrative, judicial, and split enforcement models (of adjudication), to include, *e.g.*, the number of matters that have been pending with the agency over relevant time periods, the number of matters disposed by the agency annually, and data on the types of matters before and disposed of by the agency. This data shall be made available and prominently published on the OST component or OA's website within 180 days of the close of the fiscal year.

§ 5.119 Enforcement rights.

Regulated parties that are the subject of a DOT enforcement action may, during the course of the enforcement action, petition the DOT General Counsel for a determination that responsible DOT personnel violated provisions of this rule with respect to the enforcement action. Upon finding a violation by DOT personnel, the General Counsel shall remedy the violation by directing the relevant agency decisionmaker to award the following type of relief, as warranted by the circumstances and consistent with law: (a) removal of the enforcement team from the particular matter; (b)

elimination of certain issues or the exclusion of certain evidence or the directing of certain factual findings in the course of the enforcement action; and (c) restarting the enforcement action again from the beginning or recommencing the action from an earlier point in the proceeding. The General Counsel may also make a recommendation to the relevant agency decisionmaker for appropriate administrative discipline of personnel found to have violated the rule. The General Counsel's determination on a petition, including any relief awarded, may be appealed to the Secretary.

PART 7—PUBLIC AVAILABILITY OF INFORMATION

- 10. The authority citation for part 7 continues to read as follows:

Authority: 5 U.S.C. 552; 31 U.S.C. 9701; 49 U.S.C. 322; E.O. 12600; E.O. 13392.

- 11. Amend § 7.12 by revising paragraph (a)(2) to read as follows:

§ 7.12 What records are available in reading rooms, and how are they accessed?

- (a) * * *
- (2) Statements of policy and interpretations, including guidance documents as defined in 49 CFR 5.25(c), that have been adopted by DOT;
- * * * * *

PART 106—RULEMAKING PROCEDURES

- 12. The authority citation for part 106 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

- 13. Amend § 106.40 by revising the introductory text, the first sentence of paragraph (c), and paragraph (d)(1) to read as follows:

§ 106.40 Direct final rule.

A direct final rule makes regulatory changes and states that the regulatory changes will take effect on a specified date unless PHMSA receives an adverse comment within the comment period—generally 60 days after the direct final rule is published in the **Federal Register**.

* * * * *

- (c) *Confirmation of effective date.* We will publish a confirmation document in the **Federal Register**, generally within 15 days after the comment period closes, if we have not received an adverse comment. * * *

- (d) * * *
- (1) If we receive an adverse comment, we will either publish a document withdrawing the direct final rule before

it becomes effective and may issue an NPRM or proceed by any other means permitted under the Administrative Procedure Act, consistent with procedures at 49 CFR 5.13(l).

* * * * *

PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

- 14. The authority citation for part 389 continues to read as follows:

Authority: 49 U.S.C. 113, 501 *et seq.*, subchapters I and III of chapter 311, chapter 313, and 31502; sec. 5204 of Pub. L. 114–94, 129 Stat. 1312, 1536; 42 U.S.C. 4917; and 49 CFR 1.87.

- 15. Amend § 389.39 by revising the introductory text and paragraphs (c) and (d)(1) to read as follows:

§ 389.39 Direct final rulemaking procedures.

A direct final rule makes regulatory changes and states that those changes will take effect on a specified date unless FMCSA receives an adverse comment by the date specified in the direct final rule published in the **Federal Register**.

* * * * *

- (c) *Confirmation of effective date.* FMCSA will publish a confirmation rule document in the **Federal Register**, if it has not received an adverse comment by the date specified in the direct final rule. The confirmation rule document tells the public the effective date of the rule.

- (d) * * *

- (1) If FMCSA receives an adverse comment within the comment period, it will either publish a document withdrawing the direct final rule before it becomes effective and may issue an NPRM or proceed by any other means permitted under the Administrative Procedure Act, consistent with procedures at 49 CFR 5.13(l).

* * * * *

PART 553—RULEMAKING PROCEDURES

- 16. The authority citation for part 553 is revised to read as follows:

Authority: 49 U.S.C. 322, 30103, 30122, 30124, 30125, 30127, 30146, 30162, 32303, 32502, 32504, 32505, 32705, 32901, 32902, 33102, 33103, and 33107; delegation of authority at 49 CFR 1.95.

- 17. Amend § 553.14 by revising paragraph (d) to read as follows:

§ 553.14 Direct final rulemaking.

* * * * *

- (d) If NHTSA receives any written adverse comment within the specified

time after publication of the direct final rule in the **Federal Register**, the agency will either publish a document withdrawing the direct final rule before it becomes effective and may issue an NPRM or proceed by any other means permitted under the Administrative Procedure Act, consistent with procedures at 49 CFR 5.13(l).

* * * * *

PART 601—ORGANIZATION, FUNCTIONS, AND PROCEDURES

- 18. The authority citation for part 601 is revised to read as follows:

Authority: 5 U.S.C. 552; 49 U.S.C. 5334; 49 CFR 1.91.

- 19. Amend § 601.36 by revising paragraphs (b), (c), and (d) to read as follows:

§ 601.36 Procedures for direct final rulemaking.

* * * * *

- (b) The **Federal Register** document will state that any adverse comment must be received in writing by FTA within the specified time after the date of publication and that, if no written adverse comment is received, the rule will become effective a specified number of days after the date of publication.

- (c) If no written adverse comment is received by FTA within the specified time of publication in the **Federal Register**, FTA will publish a notice in the **Federal Register** indicating that no adverse comment was received and confirming that the rule will become effective on the date that was indicated in the direct final rule.

- (d) If FTA receives any written adverse comment within the specified time of publication in the **Federal Register**, FTA will either publish a document withdrawing the direct final rule before it becomes effective and may issue an NPRM, or proceed by any other means permitted under the Administrative Procedure Act, consistent with procedures at 49 CFR 5.13(l).

* * * * *

[FR Doc. 2025–08724 Filed 5–15–25; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1****[REG–105479–18]****RIN 1545–BO61****Previously Taxed Earnings and Profits and Related Basis Adjustments****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document reopens the period to submit comments for a notice of proposed rulemaking (REG–105479–18), which was published in the **Federal Register** on Monday, December 2, 2024. The proposed regulations address previously taxed earnings and profits of foreign corporations and related basis adjustments. The proposed regulations affect foreign corporations with previously taxed earnings and profits and their shareholders.

DATES: The comment period to submit written or electronic comments for the notice of proposed rulemaking, REG–105479–18, 89 FR 95362 (December 2, 2024) is reopened until July 14, 2025.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG–105479–18) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG–105479–18), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Elena M. Madaj at (202) 317–3576; concerning submissions of comments, the Publications and Regulations Section of the Office of Associate Chief Counsel (Procedure and Administration) at (202) 317–6901 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and request for comments that appeared in the **Federal Register** on Monday, December 2, 2024 (89 FR 95362) announced that written or electronic comments must be received

by March 3, 2025. Comments requested more time to submit comments on the proposed regulations. To give all interested parties an additional opportunity to comment on the proposed regulations, the period of time to submit comments has been reopened. Comments must be received by July 15, 2025. No request for a public hearing on the proposed regulations was received before the closing of the initial comment period on March 3, 2025. Accordingly, there will not be a public hearing scheduled in connection with the notice of proposed rulemaking (REG–105479–18).

Oluwafunmilayo A. Taylor,
Section Chief, Publications & Regulations Section, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2025–08743 Filed 5–15–25; 8:45 am]

BILLING CODE 4830–01–P**LIBRARY OF CONGRESS****Copyright Royalty Board****37 CFR Part 380****[Docket No 23–CRB–0012–WR (2026–2030)]****Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies To Facilitate Those Performances (Web VI)****AGENCY:** Copyright Royalty Board (CRB), Library of Congress.**ACTION:** Proposed rule related to commercial webcasters.

SUMMARY: The Copyright Royalty Judges are publishing for comment proposed regulations governing the rates and terms for the nonsubscription digital performance of sound recordings by commercial broadcasters and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2026, and ending on December 31, 2030.

DATES: Comments and objections, if any, are due June 16, 2025.

ADDRESSES: You may submit comments using eCRB, the Copyright Royalty Board's online electronic filing application, at <https://app.crb.gov/>.

Instructions: To send your comment through eCRB, if you don't have a user account, you will first need to register for an account and wait for your registration to be approved. Approval of user accounts is only available during business hours. Once you have an approved account, you can only sign in and file your comment after setting up

multi-factor authentication, which can be done at any time of day. All comments must include the Copyright Royalty Board name and the docket number for this proposed rule. All properly filed comments will appear without change in eCRB at <https://app.crb.gov>, including any personal information provided.

Docket: For access to the docket to read submitted background documents or comments, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/>, and search for docket number 23–CRB–0012–WR (2026–2030).

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, at (202) 707–7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION:**Background**

Section 114 of the Copyright Act, title 17 of the United States Code, provides a statutory license that allows for the public performance of sound recordings by means of a digital audio transmission by, among others, eligible nonsubscription transmission services. 17 U.S.C. 114(f). For purposes of the section 114 license, an “eligible nonsubscription transmission” is a noninteractive digital audio transmission that does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings the purpose of which is to provide audio or other entertainment programming, but not to sell, advertise, or promote particular goods or services. *See* 17 U.S.C. 114(j)(6).

Services using the section 114 license may need to make one or more temporary or “ephemeral” copies of a sound recording to facilitate the transmission of that recording. The section 112 statutory license allows for the making of these ephemeral reproductions. 17 U.S.C. 112(e).

Chapter 8 of the Copyright Act requires the Copyright Royalty Judges (Judges) to conduct proceedings every five years to determine the rates and terms for the sections 114 and 112 statutory licenses. 17 U.S.C. 801(b)(1), 804(b)(3)(A). The current proceeding commenced in January 2024 for rates and terms that will become effective on January 1, 2026, and end on December 31, 2030. Pursuant to section 804(b)(3)(A), the Judges published in the **Federal Register** a notice commencing the proceeding and requesting that

interested parties submit their petitions to participate. 89 FR 812 (Jan. 5, 2024). SoundExchange, Inc. (“SoundExchange”), and National Association of Broadcasters (“NAB”) each filed Petitions to Participate, as did others.

On April 9, 2025, the Judges received a joint motion from SoundExchange and NAB to adopt a partial settlement of their interests regarding *Web VI* rates and terms for 2026–2030 and seeking approval of that partial settlement. Joint Motion to Adopt Partial Settlement, Docket No. 23–CRB–0012–WR (2026–2030).

On April 14, 2025, the Judges issued “Order 36 To File Certification or Provide Settlement Agreement,” Docket No. 23–CRB–0012–WR (2026–2030) which instructed the Settling Parties to certify that the Motion and the Proposed Regulations annexed to the Motion represent the full agreement of the Settling Parties, *i.e.*, that there are no other related agreements and no other clauses. Order 36 further ordered that if such other agreements or clauses exist, the Settling Parties shall file them.

On April 18, 2025, the Settling Parties filed a Joint Response stating that “[t]he Proposed Regulations constituted the Settling Parties’ complete agreement concerning statutory rates and terms. See 17 U.S.C. 801(b)(7)(A). However, as is customary in any litigation settlement, the Settling Parties also agreed on procedures for filing and announcing their settlement, which were set forth in a Commercial Broadcaster Settlement Agreement entered into between SoundExchange and NAB as of April 4, 2025 (“Settlement Agreement”).” Joint Response of SoundExchange Joint Petitioners and the National Association of Broadcasters to Order 36. Docket No. 23–CRB–0012–WR (2026–2030) (“Joint Response”). The Settling Parties certified that “the only other agreement between the Parties related to the Settlement is the Settlement Agreement.” Joint Response at 2. The Settlement Agreement is attached to the Joint Response as Exhibit C and “includes, at Paragraph 10, a merger clause, reflecting that the entirety of the Settling Parties’ agreement is encompassed in the Settlement Agreement.” Joint Response at 2.

Based upon the Judges’ review of the Joint Response, its attachments, and the related submissions referenced therein, the Judges find no reason to doubt that Exhibit C to the Joint Response constitutes “the agreement” for purposes of Section 801(b)(7)(A). Exhibit C may be found on pages 11–31 of the Joint Response (eCRB no. 57276).

The Judges hereby publish the Proposed Regulations and request comments from the public.¹

Statutory Timing of Adoption of Rates and Terms

Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to adopt royalty rates and terms negotiated by “some or all of the participants in a proceeding at any time during the proceeding” provided they are submitted to the Judges for approval. The Judges must provide “an opportunity to comment on the agreement” to participants and non-participants in the rate proceeding who “would be bound by the terms, rates, or other determination set by any agreement. . . .” 17 U.S.C. 801(b)(7)(A)(i). Participants in the proceeding may also “object to [the agreement’s] adoption as a basis for statutory terms and rates.” *Id.*

The Judges “may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,” only “if any participant [in the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.” 17 U.S.C. 801(b)(7)(A)(ii), or where the negotiated agreement includes provisions that are contrary to the provisions of the applicable license(s) or otherwise contrary to statutory law. See Scope of the Copyright Royalty Judges Authority to Adopt Confidentiality Requirements upon Copyright Owners within a Voluntarily Negotiated License Agreement, 78 FR 47421, 47422 (Aug. 5, 2013), citing 74 FR 4537, 4540 (Jan. 26, 2009).

Any rates and terms adopted pursuant to this provision would be binding on all copyright owners of sound recordings, and commercial broadcasters performing the sound recordings for the license period 2026–2030.

Proposed Adjustments to Rates and Terms

According to SoundExchange and NAB, the settlement includes agreed-upon per-performance royalties for nonsubscription digital audio transmissions by Commercial Broadcasters (and ephemeral recordings to facilitate such transmissions), as well as agreed-upon increases in the annual

minimum fee over the rate period. The proposed regulations also include certain agreed-upon changes to existing statutory license terms, including shortening the monthly payment cycle from 45 days to 30 days, reducing the late fee applicable to late payments discovered in an audit during the period from which a notice of intent is filed through the date that the auditor provides its written report from 1.5% per month to 1% per month, capping late fees on underpayments discovered during an audit at 75% of the total amount the auditor determines is owed pursuant to the audit, providing SoundExchange permission to distribute royalties based on proxy data when it cannot obtain a report of use from a Commercial Broadcaster, and effective January 1, 2027, requiring Commercial Broadcasters using third-party vendors for transmissions or reporting to either obtain data necessary for verifying their royalty payments from their vendors on an ongoing basis or contractually require delivery of necessary data in the event of an audit (in each instance of the foregoing, as set forth in more detail in the attached Settlement). Other terms of the applicable Section 112(e) and 114 statutory licenses are agreed to continue in all material respects in accordance with the same terms as are in effect on the date of the Motion (April 9, 2025). Joint Motion at 2–3.

Those who would be bound by the terms, rates, or other determination set by the agreement may comment on, and proceeding participants may object to, any or all of the proposed regulations contained in this document. Such comments and objections must be submitted no later than June 16, 2025.

List of Subjects in 37 CFR Part 380

Copyright, Sound recordings, Webcasters.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Royalty Board proposes to amend 37 CFR part 380 as follows:

PART 380—RATES AND TERMS FOR TRANSMISSIONS BY ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES AND FOR THE MAKING OF EPHEMERAL REPRODUCTIONS TO FACILITATE THOSE TRANSMISSIONS

■ 1. The authority citation for part 380 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

■ 2. Add subpart E to read as follows:

¹ The docket for this proceeding, including documents referenced in this document, may be accessed via the Electronic filing system eCRB at <https://app.crb.gov> and perform a case search for docket 23–CRB–0012–WR (2026–2030).

Subpart E—Nonsubscription Transmissions by Commercial Broadcasters

Sec.

380.40 Definitions.

380.41 Royalty fees for the public performance of sound recordings by Commercial Broadcasters making Nonsubscription Transmissions and for Ephemeral Recordings.

380.42 Making payment of royalty fees.

380.43 Delivering statements of account.

380.44 Distributing royalty fees.

380.45 Handling Confidential Information.

380.46 Auditing payments and distributions.

§ 380.40 Definitions.

In addition to the definitions in § 380.7, the following definitions apply for purposes of this subpart:

Collective means the collection and distribution organization that is designated by the Copyright Royalty Judges, which, for the current rate period, is SoundExchange, Inc.

Commercial Broadcaster is a Commercial Webcaster, a material part of the business of which consists of owning and operating one or more terrestrial AM or FM broadcast radio stations licensed as such by the Federal Communications Commission.

Commercial Webcaster means a Licensee, other than a Noncommercial Webcaster, Noncommercial Educational Webcaster, or Public Broadcaster, that makes Ephemeral Recordings and eligible Digital Audio Transmissions of sound recordings pursuant to the statutory licenses under 17 U.S.C. 112(e) and 114(d)(2).

Copyright Owners means sound recording copyright owners, and rights owners under 17 U.S.C. 1401(l)(2), who are entitled to royalty payments made under this part pursuant to the statutory licenses under 17 U.S.C. 112(e) and 114.

Digital Audio Transmission has the same meaning as in 17 U.S.C. 114(j)(5).

Eligible Transmission means a Nonsubscription Transmission made by a Licensee that is subject to licensing under 17 U.S.C. 114(d)(2) and the payment of royalties under this part.

Ephemeral Recording has the same meaning as in 17 U.S.C. 112.

Licensee means a Commercial Webcaster, a Noncommercial Webcaster, a Noncommercial Educational Webcaster, a Public Broadcaster, or any entity operating a noninteractive internet streaming service that has obtained a license under 17 U.S.C. 114 to make Eligible Transmissions and a license under 17 U.S.C. 112(e) to make Ephemeral Recordings to facilitate those Eligible Transmissions.

Noncommercial Educational Webcaster means a Noncommercial

Educational Webcaster under subpart C of this part.

Noncommercial Webcaster has the same meaning as in 17 U.S.C. 114(f)(4)(E), but excludes a Noncommercial Educational Webcaster or Public Broadcaster.

Nonsubscription has the same meaning as in 17 U.S.C. 114(j)(9).

Payor means the entity required to make royalty payments to the Collective or the entity required to distribute royalty fees collected, depending on context. The Payor is:

(1) A Licensee, in relation to the Collective; and

(2) The Collective in relation to a Copyright Owner or Performer.

Performance means each instance in which any portion of a sound recording is publicly performed to a listener by means of a Digital Audio Transmission (e.g., the delivery of any portion of a single track from a compact disc or server copy to one listener), but excludes the following:

(1) A performance of a sound recording that does not require a license (e.g., a sound recording that is not subject to protection under title 17, United States Code);

(2) A performance of a sound recording for which the service has previously obtained a license from the Copyright Owner of such sound recording; and

(3) An incidental performance that both:

(i) Makes no more than incidental use of sound recordings including, but not limited to, brief musical transitions in and out of commercials or program segments, brief performances during news, talk and sports programming, brief background performances during disk jockey announcements, brief performances during commercials of sixty seconds or less in duration, or brief performances during sporting or other public events; and

(ii) Does not contain an entire sound recording, other than ambient music that is background at a public event, and does not feature a particular sound recording of more than thirty seconds (as in the case of a sound recording used as a theme song).

Performers means the independent administrators identified in 17 U.S.C. 114(g)(2)(B) and (C) and the parties identified in 17 U.S.C. 114(g)(2)(D).

Public Broadcaster means a Public Broadcaster under subpart D of this part.

Qualified Auditor means an independent Certified Public Accountant.

Transmission has the same meaning as in 17 U.S.C. 114(j)(15).

§ 380.41 Royalty fees for the public performance of sound recordings by Commercial Broadcasters making Nonsubscription Transmissions and for Ephemeral Recordings.

(a) *Royalty fees.* During the period 2026–2030, royalty rates for Commercial Broadcasters making Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114, and for Ephemeral Recordings of sound recordings made pursuant to 17 U.S.C. 112(e) to facilitate such transmissions, are as follows:

(1) 2026: \$0.0028 per Performance;
(2) 2027: \$0.0029 per Performance;
(3) 2028: \$0.0030 per Performance;
(4) 2029: \$0.0031 per Performance;

and

(5) 2030: \$0.0032 per Performance.

(b) *Minimum fee.* (1) Subject to paragraph (b)(2) of this section, Commercial Broadcasters making Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114 must pay the Collective a minimum fee as follows each year for each channel or station:

(i) 2026: \$1,100;
(ii) 2027: \$1,150;
(iii) 2028: \$1,200;
(iv) 2029: \$1,250; and
(v) 2030: \$1,250.

(2) The Collective must apply the fee to the Commercial Broadcaster's account as credit towards any additional royalty fees that the Commercial Broadcaster may incur under this subpart in the same year. The fee is payable for each individual channel and each individual station maintained or operated by the Commercial Broadcaster and making Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114 during each calendar year or part of a calendar year during which it is a Licensee. The maximum aggregate minimum fee that a Commercial Broadcaster making Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114 must pay under this subpart in any calendar year is 100 multiplied by the applicable amount specified in paragraph (b)(1) of this section. The minimum fee is nonrefundable.

(c) *Ephemeral Recordings royalty fees; allocation between Ephemeral Recordings and performance royalty fees.* The Collective must credit 5% of all royalty payments under this subpart as payment for Ephemeral Recordings and credit the remaining 95% to section 114 royalties. All Ephemeral Recordings that a Commercial Broadcaster makes which are necessary and commercially reasonable for making noninteractive Nonsubscription Digital Audio Transmissions are included in the 5%.

§ 380.42 Making payment of royalty fees.

(a) *Payment to the Collective.* A Commercial Broadcaster must make the royalty payments due under this subpart to SoundExchange, Inc., which is the Collective designated by the Copyright Royalty Board to collect and distribute royalties under this subpart.

(b) *Monthly payments.* A Commercial Broadcaster must make royalty payments on a monthly basis. Payments, Statements of Account and Reports of Use are due on or before the 30th day after the end of the month in which the Commercial Broadcaster made Nonsubscription Digital Audio Transmissions of sound recordings pursuant to 17 U.S.C. 114.

(c) *Minimum payments.* A Commercial Broadcaster must make any minimum annual payments due under this subpart by January 31 of the applicable license year. A Commercial Broadcaster that as of January 31 of any year has not made any Nonsubscription Digital Audio Transmissions or Ephemeral Recordings pursuant to the licenses in 17 U.S.C. 114 and/or 17 U.S.C. 112(e), but that begins making such transmissions after that date must make any payment due by the 30th day after the end of the month in which the Commercial Broadcaster commences making such transmissions.

(d) *Late fees.* (1) A Commercial Broadcaster must pay a late fee for each payment and each Statement of Account that the Collective receives after the due date. The late fee is 1.5% (or the highest lawful rate, whichever is lower) of the late payment amount per month, except as specified in paragraph (d)(2) of this section. The late fee for a late Statement of Account is 1.5% of the payment amount associated with the Statement of Account. Late fees accrue from the due date until the date that the Collective receives the late payment or late Statement of Account.

(2) In a case in which, pursuant to § 380.46(g), an auditor determines that a Commercial Broadcaster underpaid royalties pursuant to this subpart:

(i) The late fee applicable to the underpayment so discovered shall accrue at the rate of 1% (or the highest lawful rate, whichever is lower) of the underpayment amount per month during the period starting on the date that the relevant notice of intent to audit is filed with the Copyright Royalty Judges pursuant to § 380.46(c), and ending on the date that the auditor provides its written report pursuant to § 380.46(f);

(ii) The late fee applicable to the underpayment so discovered shall accrue at the rate provided in paragraph (d)(1) of this section at all other times

between the due date and the date that the Collective receives the underpayment so discovered; and

(iii) The total amount of late fees applicable to the underpayment so discovered shall in no event exceed 75% of the principal amount of the underpayment so discovered.

(e) *Waiver of late fees.* The Collective may waive or lower late fees for immaterial or inadvertent failures of a Commercial Broadcaster to make a timely payment or submit a timely Statement of Account.

(f) *Notice regarding noncompliant Statements of Account.* If it is reasonably evident to the Collective that a timely-provided Statement of Account is materially noncompliant, the Collective must notify the Commercial Broadcaster within 90 days of discovery of the noncompliance.

(g) *Use of account numbers.* If the Collective notifies a Commercial Broadcaster of an account number to be used to identify its royalty payments for a particular service offering, the Commercial Broadcaster must include that account number on its check or check stub for any payment for that service offering made by check, in the identifying information for any payment for that service offering made by electronic transfer, in its statements of account for that service offering under § 380.43, and in the transmittal of its Reports of Use for that service offering under § 370.4 of this chapter.

§ 380.43 Delivering statements of account.

(a) *Statements of Account.* Any payment due under this part must be accompanied by a corresponding Statement of Account that must contain the following information:

(1) Such information as is necessary to calculate the accompanying royalty payment;

(2) The name, address, business title, telephone number, facsimile number (if any), electronic mail address (if any) and other contact information of the person to be contacted for information or questions concerning the content of the Statement of Account;

(3) The account number assigned to the Licensee by the Collective for the relevant service offering (if the Licensee has been notified of such account number by the Collective);

(4) The signature of:

(i) The Licensee or a duly authorized agent of the Licensee;

(ii) A partner or delegate if the Licensee is a partnership; or

(iii) An officer of the corporation if the Licensee is a corporation.

(5) The printed or typewritten name of the person signing the Statement of Account;

(6) If the Licensee is a partnership or corporation, the title or official position held in the partnership or corporation by the person signing the Statement of Account;

(7) A certification of the capacity of the person signing;

(8) The date of signature; and

(9) An attestation to the following effect: I, the undersigned owner/officer/partner/agent of the Licensee have examined this Statement of Account and hereby state that it is true, accurate, and complete to my knowledge after reasonable due diligence and that it fairly presents, in all material respects, the liabilities of the Licensee pursuant to 17 U.S.C. 112(e) and 114 and applicable regulations adopted under those sections.

(b) *Certification.* Licensee's Chief Financial Officer or, if Licensee does not have a Chief Financial Officer, a person authorized to sign Statements of Account for the Licensee, must submit a signed certification on an annual basis attesting that the Licensee's royalty statements for the prior year represent a true and accurate determination of the royalties due and that any method of allocation employed by Licensee was applied in good faith and in accordance with U.S. GAAP.

§ 380.44 Distributing royalty fees.

(a) *Distribution of royalties.* (1) The Collective must promptly distribute royalties received from Commercial Broadcasters to Copyright Owners and Performers that are entitled thereto, or to their designated agents. The Collective shall only be responsible for making distributions to those who provide the Collective with information as is necessary to identify and pay the correct recipient. The Collective must distribute royalties on a basis that values all Performances by a Commercial Broadcaster equally based upon the information provided under the Reports of Use requirements for Commercial Broadcasters pursuant to § 370.4 of this chapter and this subpart. In any case in which a Commercial Broadcaster has not provided a compliant Report of Use, whether for the current license period or otherwise, and the board of directors of the Collective determines that further efforts to seek the missing Report of Use from the Commercial Broadcaster would not be warranted, the Collective may distribute the royalties associated with the Commercial Broadcaster's missing Report of Use on the basis of Reports of Use for the corresponding calendar year filed by other Licensees.

(2) The Collective must use its best efforts to identify and locate Copyright

Owners and featured artists in order to distribute royalties payable to them under 17 U.S.C. 112(e) and 114. Such efforts must include, but not be limited to, searches in Copyright Office public records and published directories of sound recording Copyright Owners.

(b) *Unclaimed funds.* If the Collective is unable to identify or locate a Copyright Owner or Performer who is entitled to receive a royalty distribution under this part, the Collective must retain the required payment in a segregated trust account for a period of three years from the date of the first distribution of royalties from the relevant payment by a Commercial Broadcaster. No claim to distribution shall be valid after the expiration of the three-year period. After expiration of this period, the Collective may apply the unclaimed funds to offset any costs deductible under 17 U.S.C. 114(g)(3).

(c) *Retention of records.* Commercial Broadcasters shall keep and securely store complete and accurate books and records relating to payments of royalties under this subpart for a period of not less than the prior three calendar years, including all supporting documentation necessary to permit verification of the accuracy of their payments pursuant to § 380.46. On and after January 1, 2027, a Commercial Broadcaster using a third-party vendor for transmission of Performances licensed as Nonsubscription Digital Audio Transmissions pursuant to 17 U.S.C. 114 or reporting due pursuant to this subpart must comply with this requirement by either obtaining necessary data from its vendor on an ongoing basis or contractually requiring delivery of necessary data by its vendor in the event of verification pursuant to § 380.46. The Collective shall keep books and records relating to distributions of royalties for a period of not less than the prior three calendar years.

(d) *Designation of the Collective.* (1) The Judges designate SoundExchange, Inc., as the Collective to receive Statements of Account and royalty payments from Commercial Broadcasters and to distribute royalty payments to each Copyright Owner and Performer (or their respective designated agents) entitled to receive royalties under 17 U.S.C. 112(e) or 114(g).

(2) If SoundExchange, Inc. should dissolve or cease to be governed by a board consisting of equal numbers of representatives of Copyright Owners and Performers, then it shall be replaced for the applicable royalty period by a successor Collective according to the following procedure:

(i) The nine Copyright Owner representatives and the nine Performer representatives on the SoundExchange board as of the last day preceding SoundExchange's cessation or dissolution shall vote by a majority to recommend that the Copyright Royalty Judges designate a successor and must file a petition with the Copyright Royalty Judges requesting that the Judges designate the named successor and setting forth the reasons therefor.

(ii) Within 30 days of receiving the petition, the Copyright Royalty Judges must issue an order designating the recommended Collective, unless the Judges find good cause not to make and publish the designation in the **Federal Register**.

§ 380.45 Handling Confidential Information.

(a) *Definition.* For purposes of this part, "Confidential Information" means the Statements of Account and any information contained therein, including the amount of royalty payments and the number of Performances, and any information pertaining to the Statements of Account reasonably designated as confidential by the party submitting the statement. Confidential Information does not include documents or information that at the time of delivery to the Collective is public knowledge. The party seeking information from the Collective based on a claim that the information sought is a matter of public knowledge shall have the burden of proving to the Collective that the requested information is in the public domain.

(b) *Use of Confidential Information.* The Collective may not use any Confidential Information for any purpose other than royalty collection and distribution and activities related directly thereto.

(c) *Disclosure of Confidential Information.* The Collective shall limit access to Confidential Information to:

(1) Those employees, agents, consultants, and independent contractors of the Collective, subject to an appropriate written confidentiality agreement, who are engaged in the collection and distribution of royalty payments hereunder and activities related directly thereto who require access to the Confidential Information for the purpose of performing their duties during the ordinary course of their work;

(2) A Qualified Auditor or outside counsel who is authorized to act on behalf of:

(i) The Collective with respect to verification of a Licensee's statement of account pursuant to this part; or

(ii) A Copyright Owner or Performer with respect to the verification of royalty distributions pursuant to this part;

(3) Copyright Owners and Performers, including their designated agents, whose works a Licensee used under the statutory licenses set forth in 17 U.S.C. 112(e) and 114 by the Licensee whose Confidential Information is being supplied, subject to an appropriate written confidentiality agreement, and including those employees, agents, consultants, and independent contractors of such Copyright Owners and Performers and their designated agents, subject to an appropriate written confidentiality agreement, who require access to the Confidential Information to perform their duties during the ordinary course of their work;

(4) Attorneys and other authorized agents of parties to proceedings under 17 U.S.C. 112 and 114, acting under an appropriate protective order.

(d) *Safeguarding Confidential Information.* The Collective and any person authorized to receive Confidential Information from the Collective must implement procedures to safeguard against unauthorized access to or dissemination of Confidential Information using a reasonable standard of care, but no less than the same degree of security that the recipient uses to protect its own Confidential Information or similarly sensitive information.

§ 380.46 Auditing payments and distributions.

(a) *General.* This section prescribes procedures by which any entity entitled to receive payment or distribution of royalties may verify payments or distributions by auditing the Payor. The Collective may audit a Commercial Broadcaster's payments of royalties to the Collective, and a Copyright Owner or Performer may audit the Collective's distributions of royalties to the Copyright Owner or Performer. Nothing in this section shall preclude a verifying entity and the Payor from agreeing to verification methods in addition to or different from those set forth in this section.

(b) *Frequency of auditing.* The verifying entity may conduct an audit of each Payor only once a year for any or all of the prior three calendar years. A verifying entity may not audit records for any calendar year more than once.

(c) *Notice of intent to audit.* The verifying entity must file with the Copyright Royalty Judges a notice of intent to audit the Payor, which notice the Judges must publish in the **Federal Register** within 30 days of the filing of the notice. Simultaneously with the

filing of the notice, the verifying entity must deliver a copy to the Payor.

(d) *The audit.* The audit must be conducted during regular business hours by a Qualified Auditor who is not retained on a contingency fee basis and is identified in the notice. The auditor shall determine the accuracy of royalty payments or distributions, including whether an underpayment or overpayment of royalties was made. An audit of books and records, including underlying paperwork, performed in the ordinary course of business according to generally accepted auditing standards by a Qualified Auditor, shall serve as an acceptable verification procedure for all parties with respect to the information that is within the scope of the audit.

(e) *Access to third-party records for audit purposes.* The Payor must use commercially reasonable efforts to obtain or to provide access to any relevant books and records maintained by third parties for the purpose of the audit.

(f) *Duty of auditor to consult.* The auditor must produce a written report to the verifying entity. Before rendering the report, unless the auditor has a reasonable basis to suspect fraud on the part of the Payor, the disclosure of which would, in the reasonable opinion of the auditor, prejudice any investigation of the suspected fraud, the auditor must review tentative written findings of the audit with the appropriate agent or employee of the Payor in order to remedy any factual errors and clarify any issues relating to the audit; Provided that an appropriate agent or employee of the Payor reasonably cooperates with the auditor to remedy promptly any factual errors or clarify any issues raised by the audit. The auditor must include in the written report information concerning the cooperation or the lack thereof of the employee or agent.

(g) *Audit results; underpayment or overpayment of royalties.* If the auditor determines the Payor underpaid royalties, the Payor shall remit the amount of any underpayment determined by the auditor to the verifying entity, together with interest as specified in § 380.42(d). In the absence of mutually-agreed payment terms, which may, but need not, include installment payments, the Payor shall remit promptly to the verifying entity the entire amount of the underpayment determined by the auditor and the applicable late fees. If the auditor determines the Payor overpaid royalties, however, the verifying entity shall not be required to remit the amount of any overpayment to the Payor, and the Payor shall not seek by any means to recoup,

offset, or take a credit for the overpayment, unless the Payor and the verifying entity have agreed otherwise.

(h) *Paying the costs of the audit.* The verifying entity must pay the cost of the verification procedure, unless the auditor determines that there was a net underpayment (i.e., underpayments less any overpayments) of 10% or more, in which case the Payor must bear the reasonable, documented costs of the verification procedure, in addition to paying or distributing the amount of any underpayment.

(i) *Retention of audit report.* The verifying entity must retain the report of the audit for a period of not less than three years from the date of issuance.

Dated: May 13, 2025.

Christina L. Shifton,

Interim Chief Copyright Royalty Judge.

[FR Doc. 2025–08805 Filed 5–15–25; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 380

[Docket No 23–CRB–0012–WR (2026–2030)]

Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies To Facilitate Those Performances (Web VI)

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

ACTION: Proposed rule related to public broadcasters (radio).

SUMMARY: The Copyright Royalty Judges are publishing for comment proposed regulations governing the rates and terms for the digital performance of sound recordings by certain public radio stations and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2026, and ending on December 31, 2030.

DATES: Comments and objections, if any, are due June 16, 2025.

ADDRESSES: You may submit comments using eCRB, the Copyright Royalty Board's online electronic filing application, at <https://app.crb.gov/>.

Instructions: To send your comment through eCRB, if you don't have a user account, you will first need to register for an account and wait for your registration to be approved. Approval of user accounts is only available during business hours. Once you have an approved account, you can only sign in and file your comment after setting up

multi-factor authentication, which can be done at any time of day. All comments must include the Copyright Royalty Board name and the docket number for this proposed rule. All properly filed comments will appear without change in eCRB at <https://app.crb.gov/>, including any personal information provided.

Docket: For access to the docket to read submitted background documents or comments, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/>, and search for docket number 23–CRB–0012–WR (2026–2030).

FOR FURTHER INFORMATION CONTACT:

Anita Brown, CRB Program Specialist, at (202) 707–7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 114 of the Copyright Act, title 17 of the United States Code, provides a statutory license that allows for the public performance of sound recordings by means of a digital audio transmission by, among others, eligible nonsubscription transmission services. 17 U.S.C. 114(f). For purposes of the section 114 license, an “eligible nonsubscription transmission” is a noninteractive digital audio transmission that does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings the purpose of which is to provide audio or other entertainment programming, but not to sell, advertise, or promote particular goods or services. *See* 17 U.S.C. 114(j)(6).

Services using the section 114 license may need to make one or more temporary or “ephemeral” copies of a sound recording to facilitate the transmission of that recording. The section 112 statutory license allows for the making of these ephemeral reproductions. 17 U.S.C. 112(e).

Chapter 8 of the Copyright Act requires the Copyright Royalty Judges (“Judges”) to conduct proceedings every five years to determine the rates and terms for the sections 114 and 112 statutory licenses. 17 U.S.C. 801(b)(1), 804(b)(3)(A). The current proceeding commenced in January 2024 for rates and terms that will become effective on January 1, 2026, and end on December 31, 2030. Pursuant to section 804(b)(3)(A), the Judges published in the **Federal Register** a notice commencing the proceeding and requesting that

interested parties submit their petitions to participate. 89 FR 812 (Jan. 5, 2024). SoundExchange, Inc. (“SoundExchange”), National Public Radio, Inc. (“NPR”), and the Corporation for Public Broadcasting (“CPB”)¹ each filed Petitions to Participate, as did others.

On April 18, 2025, the Judges received a joint motion stating that SoundExchange, NPR, and CPB (“Settling Parties”) had reached a partial settlement regarding rates and terms for certain internet transmissions and related ephemeral recordings made by NPR, American Public Media, Public Radio International, Public Radio Exchange, and certain public radio stations (“Public Broadcasters”) for 2026–2030 and seeking approval of that partial settlement. Joint Motion to Adopt Partial Settlement, Docket No. 23–CRB–0012–WR (2026–2030).

On April 25, 2025, the Judges issued Order 46 To File Certification or Provide Settlement Agreements, Docket No. 23–CRB–0012–WR (2026–2030), which instructed the Settling Parties to certify that the Motion and the Proposed Regulations annexed to the Motion represent the full agreement of the Settling Parties, *i.e.*, that there are no other related agreements and no other clauses. Order 46 further ordered that if such other agreements or clauses exist, the Settling Parties shall file them.

Order 46 at 2.

On April 30, 2025, the Settling Parties filed a Joint Response stating that “[t]he Proposed Regulations constituted the Settling Parties’ complete agreement concerning statutory rates and terms. *See* 17 U.S.C. 801(b)(7)(A). However, as is customary in any litigation settlement, the Settling Parties also agreed on procedures for filing and announcing their settlement, which were set forth in a Public Broadcaster Settlement Agreement entered into between SoundExchange and NPR/CPB as of April 16, 2025 (“Settlement Agreement”).” Joint Response of SoundExchange Inc., National Public Radio, Inc., and the Corporation for Public Broadcasting to Order 46. Docket No. 23–CRB–0012–WR (2026–2030) (“Joint Response”). Each of the Settling Parties certified that “the only other agreement between the Parties related to the Settlement is the Settlement Agreement.” Joint Response at 2. The Settlement Agreement is attached to the Joint Response as Exhibit D and “includes, at Paragraph 20, a merger clause, reflecting that the entirety of the

Settling Parties’ agreement is encompassed in the Settlement Agreement.” Joint Response at 2.

Based upon the Judges’ review of the Joint Response, its attachments, and the related submissions referenced therein, the Judges find no reason to doubt that Exhibit D to the Joint Response constitutes “the agreement” for purposes of Section 801(b)(7)(A). Exhibit D may be found on pages 15–43 of the Joint Response (eCRB no. 57679). The Judges hereby publish the Proposed Regulations and request comments from the public.²

Statutory Timing of Adoption of Rates and Terms

Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to adopt royalty rates and terms negotiated by “some or all of the participants in a proceeding at any time during the proceeding” provided they are submitted to the Judges for approval. The Judges must provide “an opportunity to comment on the agreement” to participants and non-participants in the rate proceeding who “would be bound by the terms, rates, or other determination set by any agreement” 17 U.S.C. 801(b)(7)(A)(i). Participants in the proceeding may also “object to [the agreement’s] adoption as a basis for statutory terms and rates.” *Id.*

The Judges “may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,” only “if any participant [in the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.” 17 U.S.C. 801(b)(7)(A)(ii), or where the negotiated agreement includes provisions that are contrary to the provisions of the applicable license(s) or otherwise contrary to statutory law. *See* Scope of the Copyright Royalty Judges Authority to Adopt Confidentiality Requirements upon Copyright Owners within a Voluntarily Negotiated License Agreement, 78 FR 47421, 47422 (Aug. 5, 2013), citing 74 FR 4537, 4540 (Jan. 26, 2009).

Any rates and terms adopted pursuant to this provision would be binding on all copyright owners of sound recordings and public broadcasters performing the sound recordings for the license period 2026–2030.

Proposed Adjustments to Rates and Terms

The Settlement continues the structure of previous settlements between the parties, while increasing the payment to be made by CPB. Joint Motion at 3. Because the Settlement applies only to a closed group of licensees, and has only a single payor (CPB), the Settlement is being submitted to the Judges for adoption as a statutory rate and terms only so that it will be binding on all artists and copyright owners, including those that are not members of SoundExchange. Joint Motion at 3. The parties have agreed to continue their prior reporting arrangements but have not included the details of those arrangements in the Settlement, which, they believe, is consistent with guidance that the Judges have provided. Joint Motion at 3–4. The parties have styled their proposed regulations as a replacement subpart D to appear in the Judges’ regulations at 37 CFR part 380 and have set forth in proposed new subpart D only regulatory provisions specific to Public Broadcasters, on the assumption that the generally applicable provisions in subpart A will apply to Public Broadcasters to the extent consistent with subpart D. Joint Motion at 7, Exhibit A.

Those who would be bound by the terms, rates, or other determination set by the agreement may comment on, and any participants in the *Web VI* proceeding that would be bound by the terms, rates, or other determination set by the agreement may object to, any or all of the proposed regulations contained in this document. Such comments and objections must be submitted no later than June 16, 2025.

List of Subjects in 37 CFR Part 380

Copyright, Sound recordings, Webcasters.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Royalty Board proposes to amend 37 CFR part 380 as follows:

PART 380—RATES AND TERMS FOR TRANSMISSIONS BY ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES AND FOR THE MAKING OF EPHEMERAL REPRODUCTIONS TO FACILITATE THOSE TRANSMISSIONS

■ 1. The authority citation for part 380 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

¹ NPR and CPB are participating on behalf of themselves, NPR’s member and affiliated stations, and all public radio stations and entities eligible to receive funding from CPB. Public Broadcasting Entities Petition to Participate at 1 (Feb. 5, 2024).

² The docket for this proceeding, including documents referenced in this document, may be accessed via the Electronic filing system eCRB at <https://app.crb.gov> and perform a case search for docket 23–CRB–0012–WR (2026–2030).

■ 2. Revise subpart D to read as follows:

Subpart D—Public Broadcasters

Sec.

380.30 Definitions.

380.31 Royalty fees for the public performance of sound recordings and for ephemeral recordings.

380.32 Terms for making payment of royalty fees and statements of account.

§ 380.30 Definitions.

For purposes of this subpart, the following definitions apply:

Authorized website is any website operated by or on behalf of any Public Broadcaster that is accessed by website Users through a Uniform Resource Locator (“URL”) owned by such Public Broadcaster and through which website Performances are made by such Public Broadcaster.

CPB is the Corporation for Public Broadcasting.

Music ATH is Aggregate Tuning Hours of website Performances of sound recordings of musical works.

NPR is National Public Radio, Inc.

Originating Public Radio Station is a noncommercial terrestrial radio broadcast station that—

(1) Is licensed as such by the Federal Communications Commission;

(2) Originates programming and is not solely a repeater station;

(3) Is a member or affiliate of NPR, American Public Media, Public Radio International, or Public Radio Exchange, a member of the National Federation of Community Broadcasters, or another public radio station that is qualified to receive funding from CPB pursuant to its criteria;

(4) Qualifies as a “noncommercial webcaster” under 17 U.S.C. 114(f)(4)(E)(i); and

(5) Either—

(i) Offers website Performances only as part of the mission that entitles it to be exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501); or

(ii) In the case of a governmental entity (including a Native American Tribal governmental entity), is operated exclusively for public purposes.

Person is a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, any governmental authority or any other entity or organization.

Public Broadcasters are NPR, American Public Media, Public Radio International, and Public Radio Exchange, and up to 530 Originating Public Radio Stations as named by CPB. CPB shall notify SoundExchange annually of the eligible Originating Public Radio Stations to be considered

Public Broadcasters per this definition (subject to the numerical limitations set forth in this definition). The number of Originating Public Radio Stations treated per this definition as Public Broadcasters shall not exceed 530 for a given year without SoundExchange’s express written approval, except that CPB shall have the option to increase the number of Originating Public Radio Stations that may be considered Public Broadcasters as provided in § 380.31(d).

Side Channel is any internet-only program available on an Authorized website or an archived program on such Authorized website that, in either case, conforms to all applicable requirements under 17 U.S.C. 114.

Term is the period January 1, 2026, through December 31, 2030.

Website is a site located on the World Wide Web that can be located by a website User through a principal URL.

Website Performances are all public performances by means of digital audio transmissions of sound recordings, including the transmission of any portion of any sound recording, made through an Authorized website in accordance with all requirements of 17 U.S.C. 114, from servers used by a Public Broadcaster (provided that the Public Broadcaster controls the content of all materials transmitted by the server), or by a contractor authorized pursuant to § 380.31(g), that consist of either the retransmission of a Public Broadcaster’s over-the-air terrestrial radio programming or the digital transmission of nonsubscription Side Channels that are programmed and controlled by the Public Broadcaster; provided, however, that a Public Broadcaster may limit access to an Authorized website, or a portion thereof, or any content made available thereon or functionality thereof, solely to website Users who are contributing members of a Public Broadcaster. This term does not include digital audio transmissions made by any other means.

Website Users are all those who access or receive website Performances or who access any Authorized website.

§ 380.31 Royalty fees for the public performance of sound recordings and for ephemeral recordings.

(a) *Royalty fees.* The total license fee for all website Performances by Public Broadcasters during each year of the Term, up to the total Music ATH limit set forth in paragraph (b) of this section, and Ephemeral Recordings made by Public Broadcasters solely to facilitate such website Performances, shall be as follows (the “License Fee”), unless additional payments are required as

described in paragraph (d) of this section:

(1) 2026: \$950,000;

(2) 2027: \$975,000;

(3) 2028: \$1,000,000;

(4) 2029: \$1,025,000; and

(5) 2030: \$1,050,000.

(b) *ATH limit.* The total Music ATH limit is 310,000,000 Music ATH per year.

(c) *Calculation of License Fee.* It is understood that the License Fee includes:

(1) An annual minimum fee for each Public Broadcaster for each year during the Term;

(2) Additional usage fees for certain Public Broadcasters; and

(3) A discount that reflects the administrative convenience to the Collective (for purposes of this subpart, the term “Collective” refers to SoundExchange, Inc.) of receiving consolidated reporting of usage in accordance with § 380.32(b) that covers a large number of separate entities and annual lump sum payments that cover a large number of separate entities, as well as the predictability, time value of money and protection from bad debt that arises from being paid in advance.

(d) *Increase in Public Broadcasters.* If the total number of Originating Public Radio Stations that wish to make website Performances in any calendar year exceeds the number of such Originating Public Radio Stations considered Public Broadcasters in the relevant year, and the excess Originating Public Radio Stations do not wish to pay royalties for such website Performances apart from this subpart, CPB may elect by written notice to the Collective to increase the number of Originating Public Radio Stations considered Public Broadcasters in the relevant year effective as of the date of the notice. To the extent of any such elections, CPB shall make an additional payment to the Collective for each calendar year or part thereof it elects to have an additional Originating Public Radio Station considered a Public Broadcaster, in the amount of the annual minimum fee applicable to Noncommercial Webcasters under subpart B of this part for each additional Originating Public Radio Station per year. Such payment shall accompany the notice electing to have an additional Originating Public Radio Station considered a Public Broadcaster.

(e) *Ephemeral Recordings royalty fees; allocation between Ephemeral Recordings and performance royalty fees.* The Collective must credit 5% of all royalty payments under this subpart as payment for Ephemeral Recordings and credit the remaining 95% to section

114 royalties. All Ephemeral Recordings that a Licensee makes which are necessary and commercially reasonable for making noninteractive digital transmissions are included in the 5%.

(f) *Effect of non-performance by any Public Broadcaster.* In the event that any Public Broadcaster violates any of the material provisions of 17 U.S.C. 112(e) or 114 or this subpart that it is required to perform, the remedies of the Collective shall be specific to that Public Broadcaster only, and shall include, without limitation, termination of that Public Broadcaster's right to be treated as a Public Broadcaster per this paragraph (f) upon written notice to CPB. The Collective and Copyright Owners also shall have whatever rights may be available to them against that Public Broadcaster under applicable law. The Collective's remedies for such a breach or failure by an individual Public Broadcaster shall not include termination of the rights of other Public Broadcasters to be treated as Public Broadcasters per this paragraph (f), except that if CPB fails to pay the License Fee or otherwise fails to perform any of the material provisions of this subpart, or such a breach or failure by a Public Broadcaster results from CPB's inducement, and CPB does not cure such breach or failure within 30 days after receiving notice thereof from the Collective, then the Collective may terminate the right of all Public Broadcasters to be treated as Public Broadcasters per this paragraph (f) upon written notice to CPB. In such a case, a prorated portion of the License Fee for the remainder of the Term (to the extent paid by CPB) shall, after deduction of any damages payable to the Collective by virtue of the breach or failure, be credited to statutory royalty obligations of Public Broadcasters to the Collective for the Term as specified by CPB.

(g) *Use of contractors.* The right to rely on this subpart is limited to Public Broadcasters, except that a Public Broadcaster may employ the services of a third Person to provide the technical services and equipment necessary to deliver website Performances on behalf of such Public Broadcaster, but only through an Authorized website. Any agreement between a Public Broadcaster and any third Person for such services shall:

(1) Obligate such third Person to provide all such services in accordance with all applicable provisions of the statutory licenses and this subpart;

(2) Specify that such third Person shall have no right to make website Performances or any other performances or Ephemeral Recordings on its own behalf or on behalf of any Person or

entity other than a Public Broadcaster through the Public Broadcaster's Authorized website by virtue of its services for the Public Broadcaster, including in the case of Ephemeral Recordings, pre-encoding or otherwise establishing a library of sound recordings that it offers to a Public Broadcaster or others for purposes of making performances, but instead must obtain all necessary licenses from the Collective, the copyright owner or another duly authorized Person, as the case may be;

(3) Specify that such third Person shall have no right to grant any sublicenses under the statutory licenses; and

(4) Provide that the Collective is an intended third-party beneficiary of all such obligations with the right to enforce a breach thereof against such third Person.

§ 380.32 Terms for making payment of royalty fees and statements of account.

(a) *Payment to the Collective.* Except as provided in paragraphs (a)(1) through (3) of this section, CPB shall pay the License Fee to the Collective in the annual installments specified in § 380.31(a), which shall be due in advance on December 31, 2025, and annually thereafter through December 31, 2029.

(1) *CPB inability to pay.* If, due to a significant decrease in U.S. government funding for CPB as compared to years prior to the Term, CPB reasonably concludes that it is impossible for CPB to pay the License Fee for a particular year during the Term, CPB may by written notice to the Collective prior to December 1 of the preceding year nominate NPR or a third party to pay the License Fee for such year. In such a case, if by December 15 of the preceding year, NPR or such third party agrees by written notice to the Collective to assume CPB's obligation to pay the License Fee for such year, NPR or such third party shall do so by December 31 of the preceding year.

(2) *Dissolution of CPB.* If CPB ceases to exist, and if NPR or any successor to CPB's mission or other third party agrees by written notice to the Collective to assume CPB's obligation to pay the License Fee for the remaining years of the Term, NPR or such successor shall do so by December 31 preceding each remaining year of the Term. In such a case, NPR or such successor or other third party shall exercise all the rights of CPB under this subpart (e.g., identifying the eligible Originating Public Radio Stations to be considered Public Broadcasters), and must exercise all the responsibilities of

CPB under this subpart (e.g., providing reporting in accordance with paragraph (b) of this section).

(3) *Consequence of nonpayment.* If the Collective does not receive the License Fee for any year of the Term by December 31 of the preceding year, then the provisions of this subpart shall be unavailable to Public Broadcasters for such year, and any Public Broadcaster making website Performances and related Ephemeral Recordings during such year must pay applicable royalty fees, and comply with applicable statutory license terms, under subparts A and B of this part, except that if the Copyright Royalty Judges have adopted pursuant to 17 U.S.C. 801(b)(7)(A) a lower per-Performance rate for Nonsubscription transmissions by some other group of Licensees during such year, such lower per-Performance rate will apply to website Performances by Public Broadcasters during such year in any situation in which a per-Performance royalty is payable under subparts A and B of this part.

(b) *Reporting.* CPB and Public Broadcasters shall submit reports of use and other information concerning website Performances as agreed upon with the Collective.

(c) *Terms in general.* Subject to the provisions of this subpart, terms governing late fees, distribution of royalties by the Collective, unclaimed funds, record retention requirements, treatment of Licensees' confidential information, audit of royalty payments and distributions, and any definitions for applicable terms not defined in this subpart shall be those set forth in subpart A of this part.

Dated: May 12, 2025.

Christina L. Shifton,

Interim Chief Copyright Royalty Judge.

[FR Doc. 2025-08631 Filed 5-15-25; 8:45 am]

BILLING CODE 1410-72-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[EPA-HQ-OLEM-2021-0051; FRL-12769-01-OLEM]

North Dakota: Approval of State Coal Combustion Residuals Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of availability; request for comments.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing to approve North Dakota Coal

Combustion Residuals (CCR) partial permit program under the Resource Conservation and Recovery Act (RCRA). After reviewing the CCR permit program application submitted by the North Dakota Department of Environmental Quality (NDDEQ), EPA has preliminarily determined that North Dakota's CCR permit program meets the standard for partial approval under RCRA. If approved, North Dakota's CCR permit program will operate in lieu of the Federal CCR program with the exception of the specific provisions noted below. EPA is seeking comment on this proposal during a 60-day public comment period and will be holding a hybrid in-person and virtual public hearing on EPA's preliminary approval of North Dakota's partial CCR permit program.

DATES: Comments must be received on or before July 15, 2025. *Public hearing:* EPA will hold an in-person and online hybrid public hearing on July 8, 2025.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OLEM-2021-0051, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Land and Emergency Management (OLEM) Docket, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

- *Hand Delivery or Courier* (by scheduled appointment only): EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michelle Lloyd, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5304T, Washington, DC 20460; telephone number: (202) 566-0560; email address: lloyd.michelle@epa.gov

[epa.gov](https://www.epa.gov/coalash). For more information on this document please visit <https://www.epa.gov/coalash>.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Public Participation
 - A. Written Comments
 - B. Participation in Hybrid Public Hearing
- II. General Information
 - A. Overview of Proposed Action
 - B. Background
 - C. Statutory Authority
- III. The North Dakota Application
- IV. EPA Analysis of the North Dakota Application—Basis for Approval
 - A. Adequacy of the North Dakota Permit Program
 - 1. Guidelines for Permitting
 - 2. Guidelines for Public Participation
 - 3. Guidelines for Compliance Monitoring Authority
 - 4. Guidelines for Enforcement Authority
 - 5. Intervention in Civil Enforcement Proceedings
 - B. Adequacy of Technical Criteria
 - 1. North Dakota CCR Units and Resources
 - 2. North Dakota CCR Regulations
 - 3. North Dakota Partial Program
 - C. North Dakota's Permits Issued Under the State CCR Regulations
 - 1. North Dakota's Permits Issued Under the State CCR Regulations Are Not Part of the Permit Program Evidence Under Review
 - 2. Status of North Dakota's Previously-Issued Permits Issued Under the State CCR Regulations
- V. Proposed Action

List of Acronyms

CBI Confidential Business Information
 CCR coal combustion residuals
 CFR Code of Federal Regulations
 EPA Environmental Protection Agency
 MSWLF municipal solid waste landfill
 NDAC North Dakota Administrative Code
 NDCC North Dakota Century Code
 NDDEQ North Dakota Department of Environmental Quality
 MCL maximum contaminant level
 OLEM Office of Land and Emergency Management
 RCRA Resource Conservation and Recovery Act
 STAG State and Tribal Assistance Grant
 USWAG Utility Solid Waste Activities Group
 WIIN Water Infrastructure Improvements for the Nation

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA-HQ-OLEM-2021-0051, at <https://www.regulations.gov/> (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.epa.gov/coalash>

www.regulations.gov any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

B. Participation in Hybrid Public Hearing

EPA will begin pre-registering speakers for the hybrid public hearing upon publication of this document in the **Federal Register**. To register to speak at the hearing, please use the online registration form available on EPA's CCR website (<https://www.epa.gov/coalash/forms/public-hearing-north-dakotas-coal-combustion-residuals-permit-program>) or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to register to speak at the hearing. Both in-person and virtual hearing attendees are requested to pre-register at the link provided above. The last day to pre-register to speak at the hearing will be July 2, 2025.

EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk or via the Q&A functionality of the online platform. EPA will make every effort to accommodate all speakers who arrive and register, although preferences on speaking times may not be able to be fulfilled.

Each commenter will have five (5) minutes to provide oral testimony. EPA encourages commenters to provide EPA with a copy of their oral testimony electronically by emailing it to the person listed in the **FOR FURTHER INFORMATION CONTACT** section. EPA also recommends submitting the text of your oral comments as written comments to the rulemaking docket. If EPA is anticipating a high attendance, the time allotment per testimony may be

shortened to no shorter than three (3) minutes per person to accommodate all those wishing to provide testimony and who have pre-registered. While EPA will make every effort to accommodate all speakers who do not preregister, opportunities to speak may be limited based upon the number of pre-registered speakers. Therefore, EPA strongly encourages anyone wishing to speak to preregister. Participation in the public hearing does not preclude any entity or individual from submitting a written comment.

EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing are posted online at EPA's CCR website at <https://www.epa.gov/coalash/forms/public-hearing-north-dakotas-coal-combustion-residuals-permit-program>. While EPA expects the hearing to go forward as set forth above, please monitor our website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates. EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of an interpreter or special accommodations such as audio transcription or closed captioning, please pre-register for the hearing and describe your needs on the registration form by June 24, 2025. Alternatively, registrants may notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section of any special needs. EPA may not be able to arrange accommodations without advance notice.

II. General Information

A. Overview of Proposed Action

On April 17, 2015, EPA published a final rule creating 40 CFR part 257, subpart D, which establishes a comprehensive set of minimum Federal requirements for the disposal of CCR in landfills and surface impoundments (80 FR 21302) ("Federal CCR regulations").¹ Section 2301 of the 2016 Water Infrastructure Improvements for the Nation (WIIN) Act amended RCRA section 4005 to create a new subsection (d) that requires EPA to establish a

Federal CCR permitting program. See 42 U.S.C. 6945(d).

As amended, RCRA section 4005(d) also allows States to seek approval for a State CCR permit program that will operate in lieu of a Federal CCR permit program in the State. The statute provides that within 180 days after a State submits a complete application to the Administrator for approval, EPA shall approve the State permit program if the Administrator determines that the State program requires each CCR unit located in the State to achieve compliance with either the Federal requirements or other State requirements that EPA determines, after consultation with the State, are at least as protective as those included in the Federal CCR regulations. See 42 U.S.C. 6945(d)(1)(B).

On March 10, 2023, the NDDEQ submitted its State CCR permit program application to EPA Region 8 requesting approval of the State's partial CCR permit program.² EPA is proposing to approve the North Dakota partial CCR permit program pursuant to RCRA section 4005(d)(1)(B). 42 U.S.C. 6945(d)(1)(B). The fact that North Dakota is seeking approval of a partial program does not mean it must subsequently apply for full program approval. However, North Dakota could apply for revised partial program approval or full program approval at some point in the future if it chooses to do so. If approved, the North Dakota CCR permit program would operate in lieu of the Federal CCR program (codified at 40 CFR part 257, subpart D), with the exception of the provisions specifically identified below for which the State is not seeking approval and for which the corresponding provisions of the Federal CCR program would remain in effect. For the approved provisions, EPA would retain its inspection and enforcement authorities under RCRA sections 3007 and 3008, 42 U.S.C. 6927 and 6928, consistent with EPA's ongoing oversight authority under RCRA. See 42 U.S.C. 6945(d)(4)(B).

EPA has also engaged Federally recognized Tribes within the State of North Dakota in consultation and coordination regarding the program approval for the NDDEQ. EPA has established opportunities for an informational session and consultation, beginning with an initial conference call on May 28, 2021. Tribal consultation

has been and will continue to be conducted in accordance with the EPA policy on Consultation and Coordination with Indian Tribes (<https://www.epa.gov/sites/production/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf>). After the informational session, no Tribes sought further Tribal consultation.

B. Background

CCR are generated from the combustion of coal, including solid fuels classified as anthracite, bituminous coal, subbituminous coal, and lignite, for the purpose of generating steam to power a generator to produce electricity or electricity and other thermal energy by electric utilities and independent power producers. CCR, commonly known as coal ash, include fly ash, bottom ash, boiler slag, and flue gas desulfurization materials. CCR can be sent offsite for disposal or beneficial use or disposed of in on-site landfills or surface impoundments. This section summarizes EPA's regulatory actions on CCR to date to provide relevant background on this proposed approval of North Dakota's partial CCR permit program.

On April 17, 2015, EPA published a final rule creating 40 CFR part 257, subpart D, which established a comprehensive set of minimum Federal requirements for the disposal of CCR in landfills and surface impoundments (80 FR 21302). The rule created a self-implementing program that regulates the location, design, operating criteria, and groundwater monitoring and corrective action for CCR units, as well as the closure and post-closure care of CCR units. It also requires recordkeeping and notifications for CCR units. The Federal CCR regulations do not apply to "beneficial use" of CCR, as that term is defined in 40 CFR 257.53.

On August 5, 2016, EPA published a direct final rule (81 FR 51802) in response to an order issued by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *Utility Solid Waste Activities Group, et al. v. EPA*, No. 15–1219 (D.C. Cir. 2015). The direct final rule removed certain provisions of the Federal CCR regulations at 40 CFR 257.100(b), (c), and (d) related to the "early closure" of inactive CCR surface impoundments by April 17, 2018, that had been vacated by the D.C. Circuit.³ The direct final rule

² North Dakota Coal Combustion Residuals Permit Program Submittal. North Dakota Department of Environmental Quality. Transmitted by email from Diana Trussell, Division of Waste Management, Manager, Solid Waste Program, to Regional Administrator Becker, Region 8 Regional Administrator at the USEPA. March 2023.

¹ Unless otherwise specified, all references to part 257 and part 239 in this document are to title 40 of the Code of Federal Regulations (CFR).

³ The D.C. Circuit also vacated the phrase "not to exceed a height of 6 inches above the slope of the dike" within 40 CFR 257.73(a)(4), 257.73(d)(1)(iv), 257.74(a)(4), and 257.74(d)(1)(iv). EPA proposed slope protection requirements in its March 2018

extended the deadlines for owners and operators of inactive CCR surface impoundments who had taken advantage of the “early closure” provisions of 40 CFR 257.100 to bring the units into compliance with the Federal CCR regulations’ substantive requirements, but did not otherwise amend the Federal CCR regulations or impose new requirements on those units.

On March 15, 2018, EPA proposed to amend the Federal CCR regulations (83 FR 11584) (“March 2018 Proposed Rule”). The March 2018 Proposed Rule: (1) Addressed provisions of the final rule that had been remanded back to the Agency on June 14, 2016, by the D.C. Circuit; (2) Provided States with approved CCR permit programs (or EPA where it is the permitting authority) under RCRA section 4005(d) the ability to set certain alternative performance standards; and (3) Addressed an additional issue that had arisen since the April 2015 publication of the final rule. In addition, EPA proposed provisions that would allow States (or EPA where it is the permitting authority) the ability to incorporate flexibilities into their CCR permit programs. These flexibilities would also be available to facilities with EPA-issued CCR permits, and included: (1) Clarification on the type and magnitude of non-groundwater releases that would require a facility to comply with some or all of the corrective action procedures set forth in 40 CFR 257.96 through 257.98 in meeting their obligation to clean up the release; (2) The addition of boron to the list of constituents in appendix IV of 40 CFR part 257 that trigger corrective action; (3) The determination of the requirement for proper height of woody and grassy vegetation for slope protection; (4) A revision of the current regulations to allow the use of CCR in the construction of final cover systems for CCR units closing pursuant to 40 CFR 257.101 that are closing with waste-in-place; and (5) The addition of a new paragraph to 40 CFR 257.103 to allow facilities to qualify for the alternative closure provisions based on the continued need to manage non-CCR wastestreams in the unit.

On July 30, 2018, EPA finalized many of the proposed provisions described above (83 FR 36435) (“July 2018 Final Rule”). Specifically, EPA amended the CCR regulations to: (1) Provide States with approved CCR permit programs under the 2016 WIIN Act (or EPA when it is the permitting authority) the ability

to use alternative performance standards; (2) Revise the groundwater protection standards for four constituents in appendix IV to 40 CFR part 257 for which maximum contaminant levels (MCL) under the Safe Drinking Water Act have not been established; and (3) Provide additional time to facilities, triggered by 40 CFR 257.101(a)(1) and (b)(1)(i), to cease receiving waste and initiate closure.

On August 28, 2020, EPA published a final rule (85 FR 53516) (“Part A Final Rule”). The rule revises portions of the Federal CCR regulations to: (1) Accurately reflect the D.C. Circuit’s merits decision in *Utility Solid Waste Activities Group v. EPA*, 901 F.3d 414 (D.C. Cir. 2018) (“USWAG”), which vacated and remanded to EPA the provisions at 40 CFR 257.101(a), 257.71(a)(1)(i) and 257.50(e); (2) Finalize a new deadline of April 11, 2021, in 40 CFR 257.101(a) and (b)(1)(i), by which CCR surface impoundments must cease receipt of waste in light of the 2018 USWAG decision and the D.C. Circuit’s subsequent decision in *Waterkeeper Alliance Inc. v. EPA*, No. 18–1289 (D.C. Cir. 2019); (3) Finalize alternative closure provisions at 40 CFR 257.103 in order to allow facilities to request additional time to develop alternative capacity to manage their wastestreams (both CCR and/or non-CCR) to achieve cease receipt of waste and initiate closure of their CCR surface impoundments; and (4) Finalize two proposed amendments from an August 14, 2019 proposed rule (84 FR 40353), specifically, the addition of an executive summary to the annual groundwater monitoring and corrective action reports under 40 CFR 257.90(e) and amend the requirements for posting to the publicly accessible CCR internet sites under 40 CFR 257.107.

On November 12, 2020, EPA published another final rule making additional revisions to Federal CCR regulations (85 FR 72506) (“Part B Final Rule”). This rule finalized procedures to allow a limited number of facilities to demonstrate to EPA or a Participating State Director that, based on groundwater data and the design of a particular surface impoundment, the unit has and will continue to ensure there is no reasonable probability of adverse effects to human health and the environment.

On May 8, 2024, EPA finalized a number of further amendments to the Federal CCR regulations (89 FR 38950) (“Legacy CCR Surface Impoundments and CCR Management Units Final Rule”). This rule is currently being challenged in the D.C. Circuit. See *City Utilities of Springfield, Missouri v. EPA*,

No. 24–1200 (January 31, 2025). This final rule imposed regulatory requirements for legacy CCR surface impoundments and CCR management units at active CCR facilities and at inactive CCR facilities with a legacy CCR surface impoundment. In addition, the final rule made several technical corrections to the existing regulations, such as correcting certain citations and harmonizing definitions. On November 8, 2024, EPA published a direct final rule to correct errors in the Legacy CCR Surface Impoundments and CCR Management Units Final Rule. 89 FR 88650.

C. Statutory Authority

EPA is issuing this proposed action pursuant to RCRA sections 4005(d) and 7004(b)(1). See 42 U.S.C. 6945(d) and 6974(b)(1). As amended by section 2301 of the 2016 WIIN Act, RCRA section 4005(d) instructs the EPA to establish a Federal permit program similar to those under RCRA subtitle C and other environmental statutes and authorizes States to develop their own CCR permitting programs that go into effect in lieu of the Federal permit program upon approval by EPA. See 42 U.S.C. 6945(d).

Under RCRA section 4005(d)(1)(A), 42 U.S.C. 6945(d)(1)(A), States seeking approval of a State CCR program must submit to the Administrator “in such form as the Administrator may establish, evidence of a permit program or other system of prior approval and conditions under state law for regulation by the State of coal combustion residuals units that are located in the state.” The statute provides that EPA shall approve a State CCR permit program if the Administrator determines that the State program will require each CCR unit located in the State to achieve compliance with either: (1) The Federal CCR requirements at 40 CFR part 257, subpart D; or (2) Other State criteria that the Administrator, after consultation with the State, determines to be “at least as protective as” the Federal requirements. 42 U.S.C. 6945(d)(1)(B). The Administrator must make a final determination, after providing for public notice and an opportunity for public comment, within 180 days of receiving a State’s complete submittal of the information specified in RCRA section 4005(d)(1)(A). 42 U.S.C. 6945(d)(1)(B). EPA may approve a State CCR permit program in whole or in part. *Id.* Once approved, the State permit program operates in lieu of the Federal requirements. 42 U.S.C. 6945(d)(1)(A). In a State with a partial program, only the State requirements that have been

approved by EPA operate in lieu of the Federal requirements, and facilities remain responsible for compliance with all remaining Federal requirements in 40 CFR part 257.

As noted above, the Federal CCR regulations are self-implementing, meaning that CCR landfills and surface impoundments must comply with the terms of the regulations prior to obtaining a Federal permit or permit issued by an approved State. Noncompliance with the Federal CCR regulations can be the subject of an enforcement action brought directly against the facility. Once a final CCR permit is issued by an approved State or pursuant to a Federal CCR permit program, however, the terms of the permit apply in lieu of the terms of the Federal CCR regulations and/or requirements in an approved State program, and RCRA section 4005(d)(3) provides a permit shield against direct enforcement of the applicable Federal or State CCR regulations (meaning the permit's terms become the enforceable requirements for the permittee).⁴

RCRA section 7004(b), which applies to all RCRA programs, directs that “public participation in the development, revision, implementation, and enforcement of any . . . program under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States.” 42 U.S.C. 6974(b)(1). Accordingly, EPA considers permitting requirements, requirements for compliance monitoring authority, requirements for enforcement authority, and requirements for intervention in civil enforcement proceedings in evaluating State CCR permit program applications.

Once a State CCR permit program is approved, the Administrator must review the approved program not less frequently than every 12 years, no later than three years after a revision to an applicable section of 40 CFR part 257, subpart D, and no later than one year after any unauthorized significant release from a CCR unit located in the State. EPA also must review an approved State CCR permit program at the request of another State alleging that the soil, groundwater, or surface water of the requesting State is or is likely to be adversely affected by a release from a CCR unit in the approved State. See 42 U.S.C. 6945(d)(1)(D)(i)(I) through (IV).

In a State with an approved State CCR permit program, EPA may commence administrative or judicial enforcement actions under RCRA section 3008, 42 U.S.C. 6928, if the State requests assistance or if EPA determines that an EPA enforcement action is likely to be necessary to ensure that a CCR unit is operating in accordance with the criteria of the State's permit program. 42 U.S.C. 6945(d)(4). EPA can enforce any Federal requirements that remain in effect (*i.e.*, those for which there is no corresponding approved State provision). EPA may also exercise its inspection and information gathering authorities under RCRA section 3007 in a State with an approved program. 42 U.S.C. 6927.

III. The North Dakota Application

EPA began working with NDDEQ in November 2019 as the State developed its application for the State's partial CCR permit program.⁵ As it has with other States, EPA discussed with NDDEQ the process for EPA to review and approve the State's CCR permit program, NDDEQ's anticipated timeline for submitting a CCR permit program application to EPA, and NDDEQ's regulations for issuing permits. On September 21, 2020, the NDDEQ submitted its initial State CCR partial permit program application to EPA Region 8 for approval.

EPA reviewed NDDEQ's initial submission, held multiple meetings with the NDDEQ, and sent comments to NDDEQ regarding the application. In 2020 and 2021, EPA and NDDEQ discussed the State's adoption of certain provisions in the March 2018 Proposed Rule. Because this rule had not been finalized in relevant part, EPA advised the State that it would need to submit a record to justify those aspects of the State program if those non-finalized provisions were to be included. As a result, NDDEQ is not seeking approval of these provisions in its current application.

EPA also noted several differences in the State's technical regulations and the State's application for the partial permit program, including the need to further describe the public participation process for CCR permits in North Dakota. Following these discussions, NDDEQ submitted a revised application on May 21, 2021. Upon review of NDDEQ's revised application, EPA determined that the definition of “ground water” in the NDDEQ's State

Rules at North Dakota Administrative Code (NDAC) section 33.1–20–01.1–03 was not as protective as the definition of “groundwater” in 40 CFR 257.53. Therefore, on February 23, 2023, after consultation with EPA, NDDEQ amended its regulations to update the definition of “ground water” as it applies to CCR units to be identical to the Federal definition. On March 10, 2023, NDDEQ submitted a revised partial CCR permit program application.

IV. EPA Analysis of the North Dakota Application—Basis for Approval

RCRA section 4005(d) requires EPA to evaluate two components of a State CCR permitting program to determine whether it meets the standard for approval: the program itself, and the technical criteria that will be included in each permit issued under the State program. This section discusses EPA's review of both requirements under RCRA section 4005(d) and the criteria EPA uses to conduct this review.

First, EPA must evaluate the permit program itself (or other system of prior approval and conditions). See 42 U.S.C. 6945(d)(1)(A) through (B). RCRA section 4005(d)(1)(A) directs the State to provide evidence of a State permit program's compliance with RCRA requirements in such form as determined by the Administrator. In turn, RCRA section 4005(d)(1)(B) directs EPA to approve the State program based upon a determination that the program “requires each coal combustion residuals unit located in the state to achieve compliance with the applicable [Federal or State] criteria.” In other words, the statute directs EPA to determine that the State has sufficient authority to require compliance at all CCR units located within the State. See also 42 U.S.C. 6945(d)(1)(D)(ii)(I). To make this determination, EPA evaluates the State's authority to issue permits and impose conditions in those permits, as well as the State's authority to conduct compliance monitoring and enforcement.

During this review of the State permit program, EPA also determines whether the program contains procedures consistent with the public-participation directive in RCRA section 7004(b). RCRA section 7004(b), which applies to all RCRA programs, directs that “public participation in the development, revision, implementation, and enforcement of any . . . program under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States.” 42 U.S.C. 6974(b)(1). To make this determination, EPA evaluates the State's public participation procedures for issuing

⁴ See U.S. Environmental Protection Agency. Coal Combustion Residuals State Permit Program Guidance Document; Interim Final, August 2017, Office of Land and Emergency Management, Washington, DC 20460 (providing that the 180-day deadline does not start until EPA determines the application is complete).

⁵ A summary of the meetings with, and emails shared between, EPA and NDDEQ is included in the Technical Support Document. Records of these interactions are included in the docket for this action.

permits and for intervention in civil enforcement proceedings.

Although 40 CFR part 239 applies to the approval of State Municipal Solid Waste Landfill (MSWLF) programs under RCRA section 4005(c)(1) rather than EPA's evaluation of CCR permit programs under RCRA section 4005(d), the specific criteria outlined in that regulation provide a helpful framework to examine the relevant aspects of a State's CCR permit program. States are familiar with these criteria because all States have MSWLF programs that have been approved pursuant to these regulations, and the regulations are generally regarded as protective and appropriate.

Consequently, EPA relied on the four categories of criteria outlined in 40 CFR part 239 as guidelines to evaluate the North Dakota CCR permit program: permitting requirements, requirements for compliance monitoring authority, requirements for enforcement authority, and requirements for intervention in civil enforcement proceedings.

Second, EPA must evaluate the technical criteria that will be included in each permit issued under the State CCR permit program to determine whether they are the same as the Federal criteria, or to the extent they differ, whether the modified criteria are "at least as protective as" the Federal requirements. See 42 U.S.C. 6945(d)(1)(B). Only if both components meet the statutory requirements may EPA approve the program. See 42 U.S.C. 6945(d)(1). EPA makes this determination by comparing the State's technical criteria to the corresponding Federal criteria and, where necessary, evaluating whether a different State criteria is at least as protective as the Federal criteria.

Upon careful review, and as discussed in more detail below, EPA has preliminarily determined that the North Dakota CCR permit program includes all the elements of an adequate State CCR permit program. It also contains all the technical criteria in 40 CFR part 257, subpart D, except for the provisions specifically discussed below that North Dakota has not included in its partial permit program. Consequently, EPA is proposing to approve the North Dakota permit program "in part" by approval of the entirety of North Dakota's application, which does not encompass the full scope of Federal criteria as presently constituted. 42 U.S.C. 6945(d)(1)(B).

EPA's full analysis of the North Dakota CCR permit program, and how the North Dakota regulations differ from the Federal requirements, can be found in the Technical Support Document.

EPA determined that the North Dakota CCR permit program application was complete and notified North Dakota of its determination by letter dated May XX, 2025.⁶

A. Adequacy of the North Dakota Permit Program

Section 4005(d)(1)(A) of RCRA, 42 U.S.C. 6945(d)(1)(A), requires a State seeking State CCR permit program approval to submit to EPA, "in such form as the Administrator may establish, evidence of a permit program or other system of prior approval and conditions under State law for regulation by the State of coal combustion residuals units that are located in the State." Although the statute directs EPA to establish the form of such evidence, the statute does not require EPA to promulgate regulations governing the process or standard for determining the adequacy of such State programs. EPA, therefore, developed the *Coal Combustion Residuals State Permit Program Guidance Document; Interim Final* (82 FR 38685, August 15, 2017) (the "Guidance Document"). The Guidance Document provides recommendations on a process and standards that States may choose to use to apply for EPA approval of its CCR permit programs, based on the standards in RCRA section 4005(d), existing regulations at 40 CFR part 239, and the Agency's experience in reviewing and approving State programs.

EPA evaluated the North Dakota CCR permit program using the process and statutory and regulatory standards discussed in sections II.C. and IV.A. of this preamble. EPA's findings are summarized below and provided in more detail in the Technical Support Document located in the docket supporting this preliminary determination.

1. Guidelines for Permitting

In EPA's judgment, an adequate State CCR permit program must ensure that: (1) Existing and new facilities are permitted or otherwise approved and in compliance with either 40 CFR part 257 or other State criteria; (2) The State has the authority to collect all information necessary to issue permits that are adequate to ensure compliance with relevant 40 CFR part 257, subpart D requirements; and (3) The State has the authority to impose requirements for CCR units adequate to ensure compliance with either 40 CFR part 257, subpart D, or such other State criteria

that have been determined and approved by the Administrator to be at least as protective as 40 CFR part 257, subpart D.

All owners and operators of existing and new CCR units in North Dakota are required to comply with State CCR rules found at NDAC Chapter 33.1–20–08, and to obtain a permit in accordance with NDAC section 33.1–20–02.1 and NDAC section 33.1–20–03.1. The State CCR regulations require every person who treats or transports solid waste or operates a solid waste management unit or facility, including CCR units, to have a valid permit issued by the NDDEQ. See NDAC section 33.1–20–01.1, 33.1–20.02.1. Permit application requirements can be found in NDAC section 33.1–20–03.1–02. Once a permit application has been submitted, NDDEQ will decide whether to approve the application, return it for clarification and additional information, or deny the application. See NDAC section 33.1–20–03.1–03. If the application is approved, NDDEQ will prepare a draft permit and publish a public notice in all daily newspapers of general circulation within the State of its preliminary determination to issue a permit. See NDAC section 33.1–20–03.2–03. The public may submit comments within 30 days of the notice and NDDEQ will consider all written comments in its final determination. See NDAC 33.1–20–03.2–03. Additionally, NDDEQ may hold a public hearing if there is significant public interest. Then, NDDEQ addresses public comments on the draft permit and makes the response to comments publicly available. See NDAC section 33.1–20–03.1–03(3b). NDDEQ has 120 days to review and approve or disapprove the application. See NDAC section 33.1–20–03.1–04. Then, NDDEQ issues the final permit decision and notifies the applicant and public commenters. As a matter of policy, NDDEQ's Solid Waste Program posts all final permits for 30 days on the NDDEQ website at: <https://deq.nd.gov/PublicNotice.aspx> and <https://deq.nd.gov/wm/PublicNotices/default.aspx>. A notice is sent out through NDDEQ's listserv stating that a final permit has been posted on NDDEQ's website. This policy applies to all permit applications for major modifications, new applications, and renewals.

A permit may be modified, suspended, revoked, or denied by NDDEQ for various reasons, including: (1) Circumstances that do not meet the purpose and provisions of NDDEQ's solid waste regulations, the provisions of the permit, or the plans and specifications submitted as part of the

⁶ The North Dakota application, EPA's completeness determination letter, and the Technical Support Document are available in the docket supporting this action.

permit application; or (2) Violations of any applicable laws or rules. See NDAC section 33.1–20–02.1–07. The State's regulations specify what changes are major modifications. See NDAC section 33.1–20–02.1–07(4). Other changes to the permit may be made by written notice to and approval by NDDEQ, such as a change in the frequency of monitoring and reporting, waste sampling or analysis method, schedules of compliance, and revised cost estimates for closure and post-closure care. See NDAC section 33.1–20–02.1–07(3). An application for modification of a solid waste management unit or facility must follow the procedures and provisions in NDAC section 33.1–20–03.1–02.

The permit duration for all solid waste management facilities, including CCR facilities, is no more than ten years from the date of issuance. See the statute at North Dakota Century Code (NDCC) section 23.1–08–09(1). All permits are nontransferable. NDCC section 23.1–08–09(1). An application for renewal of any permit must be submitted at least sixty days prior to the expiration date. See NDAC section 33.1–20–02.1–08. The application for renewal must follow the procedures and provisions of NDAC section 33.1–20–03.1–02. The conditions of an expired permit continue until the effective date of a new permit if the permittee has submitted a timely and complete application for a new permit and NDDEQ, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit. See NDAC section 33.1–20–02.1–08. Permit renewals are subject to the same requirements as new permit applications and are therefore also subject to a 30-day public comment period and the optional public hearing, consistent with NDAC section 33.1–20–03.1–03(3). *Id.*

NDDEQ has the authority to collect all information necessary to issue permits that are adequate to ensure compliance with NDAC Chapter 33.1–20–08. Specifically, NDAC section 33.1–20–02.1–04 requires permit compliance such that “all solid waste management facilities and activities must be performed, constructed, operated, and closed in a manner consistent with the permit application and subject to any modifications specified through permit conditions.” In addition, NDAC section 33.1–20–03.1–02(6) specifies the information that applicants for a solid waste permit, including a CCR unit permit, are required to submit to show compliance with the solid waste rules.

EPA has preliminarily determined that North Dakota's approach to CCR permit applications and approvals meets the standard for program approval.

2. Guidelines for Public Participation

Based on RCRA section 7004, 42 U.S.C. 6974, it is EPA's judgment that an adequate State CCR permit program will ensure that: (1) Documents for permit determinations are made available for public review and comment; (2) Final determinations on permit applications are made known to the public; and (3) Public comments on permit determinations are considered and significant comments are responded to in the permit record. EPA's review of North Dakota's CCR permit program indicates that the State has adopted public participation procedures that allow interested parties to talk openly and frankly about permit issues and search for mutually agreeable solutions to differences in views. An overview of North Dakota's public participation provisions is provided below.

a. Public Notice and Participation in the CCR Permit Application Process

The State program provides public notice in several ways and at several different stages of the permitting process, which taken together ensure that documents for permit determinations are subject to public review and comment. NDDEQ requires State CCR permit applicants to provide notice to the public. Under NDAC section 33.1–20–03.1–02, NDDEQ requires an applicant for a new solid waste management facility permit to publish a notice to the public that an application for a new permit, permit modification, or renewal of a permit has been submitted to the State. The notice must indicate the type and location of the unit or facility and must be published in two separate publications of the official county newspaper of the county in which the facility is or will be located. Pursuant to NDAC 33.1–20–03.1–02, applicants proposing a solid waste management unit in a mining permit area for disposal of CCR must also file a copy of the application with the Public Service Commission in accordance with NDAC section 69–05.2–19.02(1). In addition to these obligations on the permit applicant, the North Dakota program also requires the State itself to provide notice to the public. NDCC 23.1–08–09 provides that NDDEQ shall give public notice upon receipt of a permit application in the official newspaper of the county in which the facility is to be located, noting the State is considering an

application for a solid waste management facility. The notice must include the name of the applicant, the location of the facility, and a description of the facility.

If NDDEQ makes a preliminary determination to issue a permit for a solid waste management facility, NDDEQ prepares an application review memo and draft permit. See NDAC section 33.1–20–02.1–03. The application review memo briefly describes the principal facts and the significant factual, legal, procedural, and policy questions that were considered in preparing the draft permit. It also includes a facility description, the activity subject to the permit, the type and quantities of wastes to be disposed, the permit conditions, actions on any requested variances, the procedures for reaching a final permit decision, and contact information. NDAC section 33.1–20–03.1–03(3) requires the State to publish public notice for a draft solid waste management facility permit in the official county newspaper of the county in which the solid waste management unit or the facility is located and daily newspaper of general circulation in the area of the facility. Per State policy, the public notice is posted on the NDDEQ Division of Waste Management's website under the Public Comments and Notices section. The public can view and download the application, review documents, and contact the State to request the application. The State transmits its notice of preliminary determination to issue a permit in writing to each unit of local government having jurisdiction over the area in which the facility is or will be located, and to each State agency having any authority under State law with respect to the construction and operation of the facility. The public notice is also sent to NDDEQ's email listserv group, which transmits the notice to all members of the public that have signed up to receive electronic public notices from NDDEQ. The State may also use other methods to provide direct notice to persons potentially affected by the permitting action.

NDDEQ accepts public comment on the draft permit during a 30-day public comment period. NDAC 33.1–20–03.1–03 specifies that interested persons may submit written comments on the draft permit during that time, and all written comments will be considered in NDDEQ's final determination. In addition, whenever a final permit decision is made, NDDEQ makes available to the public a written response to all significant comments on the draft permit raised during the public

hearing and public comment period. See NDDEQ's statute at NDCC section 23.1–01–11. This response will also specify which provisions, if any, in the draft permit have been changed in the final permit decision and the reasons for the change. The public comment period may be extended for permit applications with significant public interest. NDDEQ has discretion to grant extensions based on public interest. To request an extension of the public comment period, a written comment must be submitted as listed in the public notice. The public notice states, "During that period, any interested person may submit written comments and request a public hearing by stating the nature of specific issues to be raised." This applies to all permit applications for major modifications, new and/or renewals. NDAC 33.1–20–02.1–07(5) and 33.1–20–02.1–08 (citing to NDAC 33.1–20–03.1–02); See NDAC 33.1–20–03.1–03 (in which "the draft permit" includes new permits, permits with major modifications, and permit renewals). NDAC 33.1–20–03.1–03(3)(b) provides that NDDEQ may hold such a hearing if it determines that there is a significant public interest in a hearing. That provision further provides that a public notice will be issued in the same manner as the for a draft permit and that the hearing will be held at least fifteen days after the public notice has been published.

In addition, NDAC 33.1–20–08–06(6)(e) requires a public meeting with interested and affected persons whereby the owner or operator must discuss results of the assessment of remedial measures at least 30 days prior to selection of a corrective action remedy.

The State's provisions for open records laws are found in section 6 of Article XI of the North Dakota Constitution and section 44–04 of the NDAC.

b. Challenges to Permit Decisions

NDCC 23.1–01–11 provides that any person aggrieved by a permit decision may file an appeal in district court within 30 days of notification of the permit decision. NDCC 28–32–40 grants any person aggrieved by any NDDEQ decision the right to request a rehearing. In accordance with NDCC 28–32–42, any party to a proceeding may appeal NDDEQ's final order or decision to district court within 30 days of the order or decision. Petitions to reopen a hearing or for a rehearing may be made under NDCC 98–02–04.

EPA has preliminarily determined that North Dakota's approach to public participation requirements provides adequate opportunities for public participation in the permitting process

sufficient to meet the standard for program approval. The provisions described above meet the three criteria listed at the beginning of this section by providing several means by which documents for draft and final permit determinations are made available for public review and comment, as well as ensuring that public comments on permit determinations are considered and significant comments are responded to in the permit record.

3. Guidelines for Compliance Monitoring Authority

It is EPA's judgment that an adequate permit program should provide the State with the authority to gather information about compliance, perform inspections, and ensure that information it gathers is suitable for enforcement. NDDEQ has compliance monitoring authority under NDCC 23.1–08–18 and NDAC 33.1–20–04.1–04(2). Specifically, the State has statutory authorities to conduct inspections (including monitoring and testing) and enter a site for the purposes of determining compliance. See (1) NDAC 33.1–20–04.1–04(2) for the authority to obtain records and information, (2) NDCC 23.1–08–18 for the authority to conduct monitoring and testing, and (3) NDCC 23.1–08–18 for the authority to access any site or premise subject to the permit program or the records location. In addition, NDCC 23.1–08–18 provides that NDDEQ "may inspect all solid waste management activities and facilities, at all reasonable times, to ensure compliance with the laws of this state, the provisions of this chapter, and the rules authorized under this chapter."

In addition, NDAC section 33.1–20–03.1–02(6) specifies the information that applicants for a solid waste permit, including a CCR unit permit, are required to submit to show compliance with the solid waste rules:

- The site characterization in NDAC section 33.1–20–13–01 and a demonstration that the site fulfills the location standards of NDAC section 33.1–20–04.1–01. The location standards for CCR units are found in NDAC section 33.1–20–08–03;
- Soil survey and segregation of suitable plant growth material;
- Demonstrations of capability to fulfill the general facility standards of NDAC section 33.1–20–04.1–02;
- Facility engineering specifications adequate to demonstrate the capability to fulfill performance, design, and construction criteria provided for CCR units in NDAC chapter 33.1–20–08;
- The plan of operation required in NDAC section 33.1–20–04.1–03.

Operation requirements for CCR units are in NDAC section 33.1–20–08–05;

- The place where the operating record is or will be kept, NDAC section 33.1–20–04.1–04.
- Requirements for recordkeeping, notification, and posting of information to the internet are in NDAC section 33.1–20–08–08;
- Demonstration of capability to fulfill the ground water monitoring standards, NDAC section 33.1–20–08–06 or 33.1–20–13–02;
- Construction quality assurance and quality control;
- Demonstrations of capability to fulfill the closure standards, NDAC section 33.1–20–04.1–05 and otherwise provided by the solid waste rules;
- Demonstrations of capability to fulfill the post-closure standards, NDAC section 33.1–20–04.1–09 and otherwise provided by the solid waste rules; and
- An environmental compliance disclosure statement as required by NDCC section 23.1–08–17.

The State has authorities and guidelines for inspections, analysis and monitoring, which allow the State to: (1) Verify the accuracy of information submitted by owners or operators of the CCR unit; (2) Verify the adequacy of methods (including sampling) used by owners or operators in developing that information; (3) Produce evidence admissible in an enforcement proceeding; and (4) Receive and ensure proper consideration of information submitted by the public. See NDAC 33.1–20–04.1–04(2) for the authority to obtain all records and information necessary to determine compliance with State requirements. An owner or operator shall provide a copy of any document in its operating record upon NDDEQ's request. NDDEQ verifies all plans and reports for completeness, accuracy, and compliance. NDDEQ uses guidelines based on standard industry practices to verify the adequacy of methods used. Any alternate method, including supporting documentation, must be evaluated and approved by the State. Waste samples must be analyzed in a State approved and certified laboratory. The State employs quality assurance and chain-of-custody procedures from their Quality Assurance Manual, which was approved by EPA Region 8.⁷ In addition, the State ensures that it receives and ensures proper consideration of compliance information submitted by the public as North Dakota places a high priority on

⁷ North Dakota Department of Environmental Quality. 2022. Quality Management Plan for the Department of Environmental Quality. Revision 12. Document Applicable for 5 years from date of EPA Region 8 RQAM Signature. August.

addressing public comments and investigating and tracking complaints in NDDEQ's Complaints Database.

EPA has preliminarily determined that these compliance monitoring authorities are adequate, and that this aspect of the North Dakota CCR permit program meets the standard for program approval.

4. Guidelines for Enforcement Authority

It is EPA's judgment that an adequate State CCR permit program should provide the State with adequate enforcement authority to administer its State CCR permit program, including the authority to: (1) Restrain any person from engaging in activity which may damage human health or the environment; (2) Sue to enjoin prohibited activity, and (3) Sue to recover civil penalties for prohibited activity.

NDDEQ has adequate enforcement authority under the State's statutory authorities to immediately address activities that may endanger or cause damage to human health and the environment. NDCC 23.1–08–20 contains the authorities for injunction proceedings, whereby the State may maintain an action in the name of the State enjoining the action or for an order directing compliance. NDCC 23.1–08–03 contains the powers and duties of the State to prepare, issue, modify, revoke, and enforce orders after investigation, inspection, notice, and hearing requiring remedial measures for solid waste management as necessary or appropriate.

NDDEQ can sue in superior court for permanent and temporary injunctions, restraining orders, and other relief for activities that violate the State program. The authorities for these actions are contained in NDCC 23.1–08–20 and NDCC 23.1–08–03. The State has the authority to bring an administrative action to assess civil penalties for violations of the State's program. NDCC 23.1–08–23 provides the authority to assess a civil penalty up to \$12,500 per day per violation of the Code, State rules, or conditions of permits. The State also utilizes the same penalty policies, procedures, and penalty calculation matrix as the other portions of the State's RCRA program. The State also utilizes EPA's RCRA Civil Penalty Policy⁸ as a guide where circumstances dictate assessment of a penalty.

EPA has preliminarily determined that this aspect of the North Dakota CCR

permit program meets the standard for program approval.

5. Intervention in Civil Enforcement Proceedings

Based on RCRA section 7004, it is EPA's judgment that an adequate State CCR permit program should provide an opportunity for citizen intervention in civil enforcement proceedings. Specifically, the State must either: (1) Provide for citizen intervention as a matter of right, or (2) Have in place a process to (a) Provide notice and opportunity for public involvement in civil enforcement actions, (b) Investigate and provide responses to citizen complaints about violations, and (c) Not oppose citizen intervention when permissive intervention is allowed by statute, rule, or regulation.

The State program meets this first requirement. Under NDCC 23.1–08–23, North Dakota has specific authorities for intervention as a matter of right, and NDDEQ's rules provide for persons adversely affected by a violation to commence a civil action. This NDDEQ provision is specific to CCR or any permit condition, rule, order, limitation, or other requirement implementing the chapter relating to CCR. Under the North Dakota Environmental Law Enforcement Act of 1975, NDCC 32–40–06, any person aggrieved by a violation of any environmental statute, rule, or regulation may bring an action in the appropriate district court for enforcement and/or damages.

NDDEQ actively investigates and provides responses to citizen complaints, but it has not been the policy of NDDEQ to provide notice and opportunity for public involvement in proposed settlements of civil enforcement actions. NDDEQ does not oppose justified citizen interventions in accordance with NDCC section 23.1–08–23. However, since the State program meets the first requirement, it does not need to meet (2)(a) and (2)(c).

Because the State statute provides for intervention as a right in any civil action, and thus meets the first requirement, EPA has preliminarily determined that these authorities provide for an adequate level of citizen involvement in the enforcement process, and that this aspect of the North Dakota CCR permit program meets the standard for program approval.

B. Adequacy of Technical Criteria

EPA conducted an analysis of North Dakota's CCR permit program application, including a thorough analysis of North Dakota statutory authorities for the CCR program, as well

as its regulations at NDAC Chapter 33.1–20–08 of the Solid Waste Management Rules and NDCC 23.1–08 Solid Waste Management and Land Protection. As noted, North Dakota has requested approval of its partial CCR permit program, which is described further below.

1. North Dakota CCR Units and Resources

NDDEQ has identified 15 disposal units that are currently or have been used for disposal of CCR wastes (7 landfills and 8 surface impoundments) at 7 facilities in North Dakota.⁹ EPA has preliminarily determined that NDDEQ has demonstrated that it has the personnel and funding to administer a permit program that is at least as protective as the Federal requirements.¹⁰ North Dakota indicates that the State program is funded from two sources: permit fees and State general funds appropriated to NDDEQ. NDDEQ anticipates that the total funds for administering the Solid Waste Program, including the CCR permit program, will continue to be approximately \$2.2 million. In addition, NDDEQ applied for EPA State and Tribal Assistance Grants (STAG) funding for Fiscal Years 2021 through 2023. In total, NDDEQ has received \$571,396 in STAG funding to develop its CCR permit program. If EPA receives future appropriations, if approved, NDDEQ can continue to apply and receive funds for implementation of its CCR permit program. EPA has preliminarily determined that the NDDEQ staffing and funding are adequate for NDDEQ to administer the CCR permit program.

2. North Dakota CCR Regulations

EPA has preliminarily determined that the portions of the North Dakota CCR permit program that were submitted for approval meet the standard for approval under RCRA section 4005(d)(1)(B)(i), 42 U.S.C. 6945(d)(1)(B)(i). To make this preliminary determination, EPA compared the technical requirements in the North Dakota CCR regulations at NDAC Chapter 33.1–20–08 to the Federal CCR regulations at 40 CFR part 257 to determine whether they differed from the Federal requirements, and if

⁹ For more information on the specific facilities covered by the North Dakota CCR Permit Program, see pages 25–26 of the Narrative, which is included in the docket for this action.

¹⁰ The discussion on State personnel and funding is included on pages 26–30 of the Narrative, which is included in the docket for this action, and is described further in the Technical Support Document.

⁸ EPA, Resource Conservation and Recovery Act (RCRA) Civil Penalty Policy, available at <https://www.epa.gov/enforcement/resource-conservation-and-recovery-act-rcra-civil-penalty-policy>.

so, whether those differences met the standard in RCRA sections 4005(d)(1)(B)(ii) and (C), 42 U.S.C. 6945(d)(1)(B)(ii) and (C).

NDDEQ derives its authority to operate the Solid Waste Program in North Dakota from the Solid Waste Management and Land Protection Act, NDCC Chapter 23.1–08. NDDEQ largely adopted by reference the requirements at 40 CFR part 257, subpart D. See NDAC Chapter 33.1–20–08. Specifically, on July 1, 2020, North Dakota adopted by reference 40 CFR part 257, subpart D, as amended through the July 2018 Final Rule, and as modified by the *USWAG* decision. In addition, North Dakota adopted certain provisions from the March 2018 Proposed Rule, which provided certain flexibilities that were never finalized in the Federal CCR regulations, and the July 2018 final rule, which was challenged in the *Waterkeeper* litigation before the D.C. Circuit and is being reconsidered by EPA; therefore, EPA is not able to approve the majority of these flexibility provisions. For this reason, NDDEQ is no longer seeking approval for the majority of these flexibility provisions, which are described more in the Technical Support Document. In addition, on February 23, 2023, after consultation with EPA, NDDEQ amended its State regulations to update the definition of “ground water” as it applies to CCR facilities. With these exceptions, the technical requirements are analogous to the Federal regulations, and therefore are at least as protective.

In addition to the technical criteria in NDAC Chapter 33.1–20–08, North Dakota has adopted State-specific permit requirements in NDAC 33.1–20–02; public participation requirements in NDAC 33.1–20–03.1–02, NDAC 33.1–20–03.1–03, NDCC 23.1–08–09, and NDAC 33.1–20–08–06; and State financial assurance requirements in NDAC 33.1–20–14. For certain activities, North Dakota has additional requirements for CCR units, described more in the Technical Support Document.

3. North Dakota Partial Program

NDDEQ is seeking approval of its partial State CCR permit program pursuant to RCRA section 4005(d). NDDEQ’s rules mirror the Federal regulations promulgated through July 30, 2018, and as subsequently modified to comply with the D.C. Circuit’s decision in *USWAG*. NDDEQ has not amended its State CCR regulations to incorporate the Federal Part A Final Rule, the Part B Final Rule, or the Legacy CCR Surface Impoundments and CCR Management Units Final Rule.

Additionally, NDDEQ initially sought approval for provisions it adopted from the March 2018 Proposed Rule and the July 2018 Final Rule, but now is not seeking approval for a majority of those provisions. The two categories of provisions for which North Dakota is not seeking approval are: (1) State solid waste management regulations, and (2) Provisions that are in the Federal CCR regulations, but that the State does not have an analog to, or the analog is not as protective as the Federal regulation.

First, North Dakota is not seeking approval for the following 17 provisions of the State regulations:

1. NDAC section 33.1–20–01.1–14; this State provision allows for certain variances, which could be less protective than the Federal CCR regulations. Therefore, this provision will not apply to CCR units;

2. NDAC section 33.1–20–02.1–03; this State provision allows the State to issue general permits for certain solid waste activities, which could be less protective than the Federal CCR regulations. Therefore, this provision will not apply to CCR units;

3. The definition of *Nonground water releases* at NDAC section 33.1–20–08–01(19); this State provision contains corrective action procedures to remedy eligible non-ground water releases, which is less protective than the Federal CCR regulations;

4. NDAC section 33.1–20–08–02(3); this State provision is the analog to the Federal exclusion of inactive surface impoundments at inactive facilities, found at 40 CFR 257.50(e), that was vacated in *USWAG* and revised in the Legacy CCR Surface Impoundments and CCR Management Units Final Rule. This provision is less protective than the Federal CCR regulations;

5. NDAC section 33.1–20–08–04(2)(a)(1)(b); this State provision contains requirements for an alternative composite liner using recognized and generally accepted good engineering practices, which is less protective than the Federal CCR regulations;

6. NDAC section 33.1–20–08–06(1)(f); the State provision for the suspension of ground water monitoring requirements, which is less protective than the Federal CCR regulations;

7. NDAC section 33.1–20–08–06(5)(h)(2); the alternative groundwater protection standard concentrations for cobalt, lead, lithium, and molybdenum; this provision was challenged in *Waterkeeper* and is under reconsideration by the Agency. Therefore, the State is not seeking approval for this provision;

8. NDAC section 33.1–20–08–06(5)(g)(5); this State provision is the

analog to the Federal requirement that unlined CCR surface impoundments must retrofit or close after an assessment of corrective measures is required, found at 40 CFR 257.95(g)(5), which references a provision that was vacated in *USWAG*. This provision is less protective than the Federal CCR regulations;

9. NDAC section 33.1–20–08–06(7)(b)(2); the State provision allows for a corrective action remedy to attain a risk-based groundwater concentration that is protective of human health and the environment, which is less protective than the Federal CCR regulations;

10. NDAC section 33.1–20–08–06(7)(e); this State provision states that the NDDEQ determination that a remediation of a release of a constituent listed in appendix II may not be necessary, which is less protective than the Federal CCR regulations;

11. NDAC section 33.1–20–08–06(8)(c)(4); this State provision authorizes the NDDEQ to specify an alternative length of time to demonstrate that concentrations of constituents listed in appendix II have not exceeded the ground water protection standards, which is less protective than the Federal CCR regulations;

12. NDAC section 33.1–20–08–06(9); this State provision contains corrective action procedures to remedy eligible nonground water releases. Also, NDDEQ is not applying for any references to NDAC section 33.1–20–08–06(9), including NDAC section 33.1–20–08–05(5)(b)(5), NDAC section 33.1–20–08–06(1)(d), NDAC section 33.1–20–08–08(1)(h)(15) for the notification of discovery of a nonground water release, and NDAC section 33.1–20–08–08(1)(h)(16) as this State provision relates to the submission of a report documenting the completion of the corrective action. These provisions are less protective than the Federal CCR regulations;

13. NDAC section 33.1–20–08–07(2)(a); this State provision relates to the date for unlined surface impoundments to cease receipt of waste, which is less protective than the Federal CCR regulations;

14. NDAC section 33.1–20–08–07(2)(b)(1)(a); this State provision relates to the date for unlined surface impoundments to cease receipt of waste, which is less protective than the Federal CCR regulations;

15. NDAC section 33.1–20–08–07(3)(d)(4); this State provision relates to the use of CCR in design and construction of final cover system, which is less protective than the Federal CCR regulations;

16. NDAC section 33.1–20–08–07(4); this State provision is the analog to the Federal alternative closure requirements of CCR units, found at 40 CFR 257.103. This includes no alternative capacity for non-CCR wastestreams. NDDEQ has not amended its regulations to adopt the Federal CCR regulation provisions in the Part A Final Rule; and

17. Paragraphs (2) and (3) of NDAC section 33.1–20–08–07(5)(c); these State provisions relate to the alternate post-closure period. Also, NDAC section 33.1–20–08–08(1)(i)(14) relating to the notification of a demonstration including long-term performance data supporting the reduced post-closure care period. These provisions are less protective than the Federal CCR regulations.

Second, the following 7 provisions are incorporated by 40 CFR 257.52 into the Federal CCR regulations or are otherwise included in the Federal CCR regulations, but the State does not have an analog or the analog is not as protective as the Federal CCR regulation. For these provisions, the corresponding Federal CCR regulation will continue to apply directly to each regulated CCR unit:

1. NDAC section 33.1–20–04.1–01(2)(a)(3) for floodplains; the Federal requirements for floodplains, found at 40 CFR 257.3–1;

2. NDAC section 33.1–20–04.1–01(2)(a)(7) for endangered species; the Federal requirements for endangered species, found at 40 CFR 257.3–2;

3. NDAC section 33.1–20–04.1–02(3) for surface water; the Federal requirements for surface water, found at 40 CFR 257.3–3;

4. 40 CFR 257.71(d) for alternate liner demonstrations;

5. 40 CFR 257.90(e)(6) for a groundwater monitoring annual report summary;

6. 40 CFR 257.107(a) CCR website requirements;

7. Amendments made in the Legacy CCR Surface Impoundments and CCR Management Units Final Rule.¹¹

With the exception of the 24 provisions noted above, EPA has preliminarily determined that the North Dakota CCR regulations contain all of the technical elements of the Federal CCR regulations, including

requirements for location restrictions, design and operating criteria, groundwater monitoring and corrective action, closure requirements and post-closure care, recordkeeping, notification and CCR website posting requirements. The North Dakota CCR permit program also contains State-specific language, references, definitions, and State-specific requirements that differ from the Federal CCR regulations, but which EPA has determined to be “at least as protective as” the Federal criteria.

The effect of approving a partial State CCR program is that, except for the provisions for which EPA has not granted approval, the North Dakota CCR permit program will apply in lieu of the Federal regulations. For the State provisions that will not be approved upon finalization, the corresponding Federal requirements will continue to apply directly to facilities, and therefore facilities must comply with both the Federal requirements and the State requirements. In the case of provisions for which there is no Federal analog, but EPA is not approving the provision because it is not as protective as the Federal CCR regulations, such provisions will not apply to facilities in North Dakota and will therefore be moot.

C. North Dakota’s Permits Issued Under the State CCR Regulations

Pursuant to North Dakota’s CCR regulations, the owner or operator of an existing CCR unit that received CCR on or after October 19, 2015, was required to apply to NDDEQ to modify any existing permit to comply with the State’s CCR regulations by July 1, 2022. NDAC section 33.1–20–08–2(9). All owners and operators of CCR units within the State applied for a modified permit. Subsequently, NDDEQ issued modified permits to the owners and/or operators of all CCR units in the State.

1. North Dakota’s Permits Issued Under the State CCR Regulations Are Not Part of the Permit Program Evidence Under Review

On March 10, 2023, NDDEQ submitted its revised State partial CCR permit program application and requested approval of the State’s partial CCR permit program. From 2023 to 2025, EPA and NDDEQ met several times to discuss the program application and the existing State CCR permits. In these conversations, EPA and NDDEQ discussed, among other topics, technical aspects of these permits including monitored natural attenuation,

groundwater monitoring, and alternative source demonstrations.¹²

Following these discussions, North Dakota subsequently indicated to EPA that it does not seek to have their existing permits approved as part of their partial program. Instead, NDDEQ committed to review and reissue these permits to ensure compliance with the Federally approved program, after EPA issues its final determination of adequacy.¹³ Therefore, EPA has treated these existing permits as outside the program evidence submitted for EPA review and thus not relevant to the decision on the permit program. See 42 U.S.C. 6945(d)(1)(A), and (d)(1)(B). EPA is basing its proposed decision on information in the program application package, as outlined in EPA’s 2017 Guidance Document,¹⁴ submitted by NDDEQ on March 10, 2023.

2. Status of North Dakota’s Previously-Issued Permits Issued Under the State CCR Regulations

Because North Dakota has chosen to exclude its previously-issued permits from the scope of its permit program application, those permits also would not become effective under RCRA as a consequence of an EPA final approval action. Thus, any permits issued prior to EPA’s approval of the State’s partial program would not provide facilities with the Federal permit shield in RCRA sections 4005(d)(3) and (d)(6). 42 U.S.C. 6945(d)(3) and (d)(6). Instead, these permits only become a part of the State’s approved program and give rise to the Federal permit shield once renewed or

¹² The Agency included the technical documents that EPA reviewed as part of the NDDEQ permit review and these are summarized in the Technical Support Document and the documents are in the docket for this action.

¹³ In a March 10, 2025 letter, NDDEQ stated that upon approval of the North Dakota CCR permit program, the State commits to: (1) review and amend, as appropriate, all existing permits scheduled to expire in 2025 and 2026; (2) review and amend, as appropriate, all existing permits scheduled to expire in or after 2027; and (3) all actions on existing permits will follow the public notification and comment requirements in the Federally approved CCR program. North Dakota sent a subsequent letter on April 11, 2025 that stated NDDEQ would consider all permits issued under the state program to be Federally enforceable and committed to reviewing all existing permits to ensure compliance with the Federally approved program. EPA reached out to NDDEQ to follow-up on the meaning of this letter because it could be read as being inconsistent with the March 10, 2025 letter. During this conversation, the State explained it intended to take action in accordance with its March 10, 2025 letter and suggested EPA could disregard the April 11, 2025 letter. A summary of the communication between EPA and NDDEQ is included in the Technical Support Document and records of the interactions are included in the docket for this action.

¹⁴ See Chapter 4—Permit Program Application Checklist.

¹¹ The provisions that changed in 40 CFR part 257, subpart D as a result of the finalization of the “Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Legacy CCR Surface Impoundments” rule (89 FR 38985, May 8, 2024) and the technical corrections direct final rule (89 FR 88650, November 8, 2024) are included in a file titled “Guide to Legacy CCR Surface Impoundments and CCR Management Units Final Rule Regulatory Text Changes” and is available in the docket.

reissued “in accordance with” the approved program. 42 U.S.C. 6945(d)(6)(A). Similarly, RCRA section 4005(d)(3)(A) makes clear that in the absence of a permit “under” an approved State program, facilities would still need to comply with the Federal regulations. EPA intends to review the reissued permits in

conjunction with the program review required by RCRA section 4005(d)(1)(D)(i) and 4005(d)(1)(D)(ii). 42 U.S.C. 6945(d)(1)(D)(i), (ii).

V. Proposed Action

EPA has preliminarily determined that the North Dakota partial CCR permit program meets the statutory

standard for approval. Therefore, in accordance with 42 U.S.C. 6945(d), EPA is proposing to approve the North Dakota partial CCR permit program.

Lee Zeldin,
Administrator.

[FR Doc. 2025–08705 Filed 5–15–25; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 90, No. 94

Friday, May 16, 2025

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

Submission for OMB Review; Comment Request

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding these information collections are best assured of having their full effect if received by June 16, 2025. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to

the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service (NASS)

Title: Agricultural Resource Management and Chemical Use Surveys—Substantive Change.

OMB Control Number: 0535–0218.

Summary of Collection: General authority for these data collection activities is granted under U.S. Code, title 7, section 2204 which specifies that “The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics . . .”. The primary objective of the National Agricultural Statistics Service (NASS) is to provide data users with timely and reliable agricultural production and economic statistics, as well as environmental and specialty agricultural related statistics. To accomplish this objective, NASS relies on the use of diverse surveys that show changes within the farming industry over time.

The National Agricultural Statistics Service (NASS) is proposing a substantive change to the ARMS 1 & 2 and Chemical Use Survey IC (0535–0218) to incorporate updates to the ARMS 2 Cotton Questionnaire and the Fruit Chemical Use questionnaire.

The ARMS 2 Potato questionnaire will remain unchanged.

Need and Use of the Information: These changes will provide updated data for cotton and fruit that are essential for evaluating the economic and environmental consequences of farm chemical regulations.

Description of Respondents: Farms and Ranches.

Number of Respondent: 116,650.

Frequency of Responses: Reporting: Less than five times per year.

Total Burden Hours: 52,147.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2025–08765 Filed 5–15–25; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Forest Service

Pemigewasset Ranger District; White Mountain National Forest; Grafton County New Hampshire; Waterville Valley Resort EIS

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The White Mountain National Forest (WMNF) is initiating the preparation of an environmental impact statement (EIS) to analyze and disclose the potential significant environmental effects of projects proposed by Waterville Valley Resort (WVR). The proposed projects (proposed action) are identified within WVR's 2020 Master Development Plan (MDP), and include installation of a village to summit lift system; construction of new traditional and gladed ski terrain; development of new on-mountain facilities; development of new snowmaking infrastructure; construction of a new parking lot; and amendments to the 2005 Land and Resource Management Plan (Forest Plan) to permit the expansion of WVR's existing special use permit (SUP) boundary and to remove the applicability of Forest-wide Canada Lynx Standard S–3 consistent with the National Forest Management Act (NFMA). The Planning, Administrative Review, and Litigation System identification number for the project is 67459.

DATES: Comments concerning the scope of the analysis must be received by June 16, 2025. The draft EIS will be released a year from publishing of the Notice of Intent (NOI) and the final EIS will be released two years from publishing of the NOI, initiating the objection period.

ADDRESSES: Comments may be sent electronically to SM.whitemountain.comments@usda.gov or via facsimile to 603–536–3685. Please put “Waterville Valley Resort scoping” in the subject line. Send written comments to Derek Ibarguen, Forest Supervisor, c/o Justin Preisendorfer, Winter Sports Team Leader, White Mountain National Forest, 71 White Mountain Drive, Campton, NH 03223.

FOR FURTHER INFORMATION CONTACT: Matt Loscalzo, Project Manager, by email at

matthew.loscalzo@usda.gov or by phone at 720–908–1213.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 844–433–2774, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of, and need for, Forest Service action is to respond to an application submitted by WVR under the National Forest Ski Area Permit Act of 1986 and Ski Area Recreational Opportunity Act of 2011 to expand their permit boundary and to implement projects from their Forest Service-accepted MDP.

The objective of the proposed action is to connect WVR and the Town of Waterville Valley amenities and increase the availability of terrain and services at the resort to meet growing guest expectations. To meet this objective, WVR is proposing various projects to enhance the recreation experience which cannot be accomplished with existing amenities and infrastructure.

Proposed Action

The proposed action includes projects located on, or connected to, National Forest System (NFS) lands managed by the WMNF.

WVR proposes to construct a lift system between the Town of Waterville Valley and WVR; increase terrain diversity and quantity of gladed (tree skiing) terrain; improve lift and terrain access for guests at the WVR base area; and provide additional on-mountain guest services.

WVR's existing 3,066-acre SUP boundary is proposed to increase by approximately 333 acres. Additionally, 377 acres would be designated as Management Area 9.2—Alpine Ski Area Expansion for potential future development requiring site-specific NEPA analysis prior to any implementation. A village-to-summit lift system is proposed to provide direct non-vehicular transit between the Town of Waterville Valley and WVR. The 10-person lift system would be approximately 8,550 feet in length and would include two separate segments and a mid-station. The bottom terminal would be located on private land owned by a sister company to the proponent which would be analyzed in the EIS as a connected action. Approximately 200 acres of new gladed terrain and up to 32 acres of traditional ski terrain is proposed within WVR's existing and proposed SUP boundary. New

snowmaking infrastructure is proposed to provide snowmaking coverage to all traditional ski terrain, totaling approximately 32 acres of new snowmaking. Two new on-mountain facilities are also proposed, including a lift system mid-station building with a guest service and administrative space, as well as a restaurant at the top of Green Peak. Additionally, a parking lot with approximately 80 parking spaces is proposed adjacent to the lift system mid-station. To provide access to the lot and to the proposed mid-station, an approximately 700-foot-long access road would be constructed from Tripoli Road.

To accommodate the proposed action, an amendment to the Forest Plan is proposed to reallocate approximately 710 acres of NFS lands to Management Area 7.1—Alpine Ski Area and Management Area 9.2—Alpine Ski Area Expansion; additionally, 387 acres of NFS lands currently designated as Management Area 9.2—Alpine Ski Area Expansion is proposed to be reallocated to new Management Areas which would preclude future expansion of downhill skiing infrastructure. Further, a programmatic amendment to the Forest Plan is also proposed to remove the applicability of Forest-wide Canada Lynx Standard S–3 from within the proposed SUP boundary expansion and adjacent block of proposed Management Area 9.2—Alpine Ski Area Expansion.

Preliminary Alternatives

An EIS is being used due to the potential loss of suitable habitat for Canada Lynx and potential significant effects to lynx habitat. These effects could drive analysis alternatives.

Expected Impacts

The proposed action has the potential to result in significant impacts to various resources. Specific issues to be analyzed in the forthcoming EIS in order to determine significance include, but are not limited to potential impacts to water quality and quantity from increases in run-off and peak flows, potential impacts to suitable Canada lynx foraging and denning habitat, the potential for increased soil erosion and soil compaction from tree-clearing and grading associated with construction and operation of the proposed projects, and potential impacts to northern long-eared, tricolored, and woodland bats due to tree clearing. In addition to the proposed ski area development, reallocations of Forest Plan Management Areas could impact resources through changes to management prescriptions and designated uses that exist for those Management Areas.

Lead and Cooperating Agencies

The Forest Service is the lead Federal agency for NEPA compliance, review, and approval concerning the EIS. While the Forest Service is the lead agency for this project, any government agency with jurisdiction or special expertise relating to a proposed action may be a cooperating agency in the NEPA process, at the request of the lead agency. Any such agency may also request to be designated as a cooperating agency. At this time, no agency has been designated or requested to be involved as a cooperating agency.

Responsible Official

The responsible official is White Mountain National Forest Supervisor, Derek Ibarguen.

Scoping Comments and the Objection Process

This notice of intent initiates the scoping process, 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. One public open house meeting and one virtual meeting will be held during the public scoping comment period. The open house date and location and link to the virtual meeting will be posted to the project website: <https://www.fs.usda.gov/r09/whitemountain/projects/67459>. Representatives from the WMNF and WVR will be present to provide additional information on the proposed action.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the draft EIS; therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns. Commenting during scoping and any other designated opportunity to comment provided by the responsible official as prescribed by the applicable regulations will also govern eligibility to object once the final EIS and draft record of decision (ROD) has been published. 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 do not establish eligibility for the objection process.

Objections will be accepted only from those who have previously submitted

specific written comments regarding the proposed project during scoping or other designated opportunity for public comment in accordance with 36 CFR 218.5 and 219.53. Issues raised in objections must be based on previously submitted timely, specific written comments regarding the proposed project unless based on new information arising after designated opportunities.

Permits, Licenses or Other Authorizations Required

Permits and other authorizations required for this project include a Forest Service SUP amendment. Additionally, WVR will be responsible for acquiring all relevant permits prior to implementation such as but not limited to a New Hampshire (NH) Department of Transportation (DOT) driveway permit, NH DOT encroachment agreement, NH Department of Environmental Services (DES) alteration of terrain permit, and NH DES wetlands permit.

Nature of Decision To Be Made

Given the purpose and need, the responsible official will review the proposed action, any other potential alternatives to be developed, and environmental consequences to determine whether the proposed action complies with all applicable laws governing Forest Service actions and with applicable standards and guidelines found in the Forest Plan; whether the EIS has sufficient site-specific environmental analysis to make an informed decision; and whether the proposed action meets the purpose and need for action. With this information, the responsible official must decide whether to select the proposed action, in whole or in part, or one of any other potential alternatives that may be developed, and what, if any, additional actions should be required.

Substantive Requirements

The substantive requirements of 36 CFR 219.8 through 219.11 that directly apply to the proposed Forest Plan amendments are § 219.8(a) and (b) sustainability, § 219.9(a) diversity of plant and animal communities, § 219.10(a) multiple uses, and § 219.11(c) and (d) timber requirements based on NFMA.

Ellen Shultzabarger,

Associate Deputy Chief, National Forest System.

[FR Doc. 2025–08693 Filed 5–15–25; 8:45 am]

BILLING CODE 3411–15–P

CENTRAL INTELLIGENCE AGENCY

Notice of Decennial Review of Operational Files Designations

AGENCY: Central Intelligence Agency.

ACTION: Notice of decennial review of CIA operational file designations.

SUMMARY: The Central Intelligence Agency (“CIA” or “the Agency”) is soliciting comments regarding the historical value of, or other public interest in, the CIA files designated by the Director of the Central Intelligence Agency (DCIA) pursuant to the CIA Information Act of 1984.

DATES: Comments must be received by June 16, 2025.

ADDRESSES: Comments may be submitted by the following methods: By mail to Michelle Y. Murphy-Bell, Director Enterprise Data Management, Central Intelligence Agency, Washington, DC 20505, or by fax to (703) 613–3007.

FOR FURTHER INFORMATION CONTACT: Michelle Y. Murphy-Bell, Director Enterprise Data Management, Central Intelligence Agency, telephone (703) 613–1287.

SUPPLEMENTARY INFORMATION: The CIA Information Act of 1984, codified in section 3141 of title 50 of the United States Code, authorizes the DCIA to designate certain operational files of the CIA Directorate of Operations (DO), Directorate of Science and Technology (DS&T), and Office of Security (OS) as exempt from the search, review, and disclosure provisions of the Freedom of Information Act. The statute defines operational files as:

1. Files of the DO that document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

2. Files of the DS&T that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

3. Files of the OS that document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources; except that files that are the sole repository of disseminated intelligence are not operational files.

The CIA Information Act of 1984 requires that, not less than once every ten years, the DCIA shall review the exemptions in force to determine whether such exemptions may be removed from any category of exempted

files or any portion thereof. The last review was completed in November 2015. The following represents a summary of the general categories of operational files that have been maintained within the DO, the DS&T, and the OS since the last decennial review:

1. Files of the DO that document the intelligence sources and methods associated with various operational and foreign liaison activities, that document the conduct and management of various operational and foreign liaison activities, and that document the assessment of the viability of potential operational and foreign liaison activities and potential intelligence sources and methods;

2. Files of the DS&T that document the use of scientific and technical systems in the conduct of and in support of various operational and intelligence collection activities;

3. Files of the OS that document various aspects of the investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources proposed for use in various operational activities.

The CIA is in the process of conducting the 2025 decennial review of its operational files to determine whether any of the previously designated files, or portions thereof, can be removed from any of the specified categories of exempted files. The CIA Information Act of 1984 requires that the decennial review “include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.” In accordance with this requirement, the CIA hereby solicits comments for the DCIA’s consideration during the decennial review of the CIA’s operational files regarding the historical value of, or other public interest in, the subject matter of these particular categories of files or portions thereof described above.

Dated: May 7, 2025.

Michelle Y. Murphy-Bell,

Director, Enterprise Data Management, Central Intelligence Agency.

[FR Doc. 2025–08807 Filed 5–15–25; 8:45 am]

BILLING CODE 6310–02–P

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Chemical Weapons Convention Declaration and Report Handbook and Forms & Chemical Weapons Convention Regulations (CWCRC)**

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 7, 2025, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Industry and Security, Department of Commerce.

Title: Chemical Weapons Convention Declaration and Report Handbook and Forms & Chemical Weapons Convention Regulations (CWCRC).

OMB Control Number: 0694-0091.

Form Number(s): Form 1-1, Form, 1-2, Form 1-2A, Form 1-2B.

Type of Request: Regular submission, extension of current information collection.

Number of Respondents: 725.

Average Hours per Response: 10 minutes to 12 hours.

Burden Hours: 15,815 hours.

Needs and Uses: The Chemical Weapons Convention (CWC or Convention) is a multilateral arms control and non-proliferation treaty that seeks to achieve an international ban on chemical weapons (CW). The CWC prohibits, inter alia, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons. Furthermore, each State Party to the Convention is required to make initial and annual declarations on certain facilities which produce, process, consume, transfer, or import/export toxic chemicals and their precursors as specified in three lists or schedules of chemicals contained in the Convention's Annex on Chemicals. In addition to traditional CW agents, the

Schedules include chemicals that have both large-scale commercial uses and CW applications (referred to as "dual-use chemicals"). Information is also required on facilities which produce a broad class of chemicals referred to as "Unscheduled Discrete Organic Chemicals," or "UDOCs." Finally, information is also required from facilities subject to inspection by the Organization for the Prohibition of Chemical Weapons (OPCW). This information is in addition to information provided in initial and annual declarations.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Mandatory.

Legal Authority: Executive Order 13128 authorizes the Department of Commerce (DOC) to issue regulations necessary to implement the Act and U.S. obligations under Article VI and related provisions of the Convention.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0694-0091.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2025-08733 Filed 5-15-25; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-570-193]

Erythritol From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable

subsidies are being provided to producers and exporters of erythritol from the People's Republic of China (China). The period of investigation is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 16, 2025.

FOR FURTHER INFORMATION CONTACT: Ajay Menon or Christopher Doyle, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0208 or (202) 482-5882, respectively.

SUPPLEMENTARY INFORMATION:**Background**

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 10, 2025.¹ On February 19, 2025, Commerce postponed the preliminary determination of this investigation and the revised deadline is now May 12, 2025.² For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The product covered by this investigation is erythritol from China. For a complete description of the scope of this investigation, see Appendix I.

¹ See Erythritol from the People's Republic of China: Initiation of Countervailing Duty Investigation, 90 FR 1962 (January 10, 2025) (Initiation Notice).

² See Erythritol from China: Postponement of Preliminary Affirmative Determination of Countervailing Duty Investigation, 90 FR 9888 (February 19, 2025).

³ See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Erythritol from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce intends to issue its preliminary decision regarding comments concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations in the preliminary determination of the companion AD investigation.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁷ For further information, see the "Use of Facts Otherwise Available and Adverse Inferences" section in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of erythritol from China based on a request made by the petitioner.⁸ Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than September 24, 2025, unless postponed.

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ See *Initiation Notice*.

⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ See sections 776(a) and (b) of the Act.

⁸ See Petitioner's Letter, "Request to Align Final Antidumping and Countervailing Duty Determinations," dated February 12, 2025.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Baolingbao Biology Co., Ltd. (Baolingbao Biology) and Shandong Sanyuan Biotechnology Co., Ltd (Shandong Sanyuan) that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁹

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i>)
Baolingbao Biology Co., Ltd	3.29
Shandong Sanyuan Biotechnology Co., Ltd	3.49
All Others	3.47

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act,

⁹ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, *e.g.*, *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1. As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, see Memorandum, "Calculation of the All-Others Rate for the Preliminary Determination," dated concurrently with this notice.

Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.¹⁰ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹¹

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged

¹⁰ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹² Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number, (2) the number of participants and whether any participant is a foreign national, and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 after the final determination whether imports of erythritol from China are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f)

and 777(i) of the Act and 19 CFR 351.205(c).

Dated: May 12, 2025.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The product within the scope of this investigation is erythritol, which is a sugar alcohol, commonly referred to as a polyol, typically produced by the fermentation of glucose using enzymes and yeast or yeast-like fungi (though the scope includes erythritol produced using any other feedstock or organism). Erythritol is an organic compound with the molecular formula C₄H₁₀O₄ and a Chemical Abstracts Service (CAS) registry number of 149–32–6. Other names for erythritol include meso-erythritol, (2R, 3S)-butane-1,2,3,4-tetrol, butane-1,2,3,4-tetrol, or meso-1,2,3,4-Tetrahydroxybutane.

Erythritol typically appears as a white crystalline, odorless product that rapidly dissolves in water. While erythritol is typically produced in the crystalline form or as a fine powder or in directly compressible form, the scope of this investigation covers all physical forms and grades of erythritol, including organic erythritol.

The merchandise covered by this investigation is classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2905.49.4000. Erythritol may also enter under HTSUS subheading 2106.90.9998. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Injury Test
- IV. Analysis of China's Financial System
- V. Diversification of China's Economy
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Subsidies Valuation
- VIII. Benchmarks and Interest Rates
- IX. Analysis of Programs
- X. Recommendation

[FR Doc. 2025–08817 Filed 5–15–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–879]

Certain Corrosion-Resistant Steel Products From the Republic of Korea: Final Results and Rescission, in Part, of the Countervailing Duty Administrative Review; 2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies were provided to producers and exporters of certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea). The period of review (POR) is January 1, 2022, through December 31, 2022.

DATES: Applicable May 16, 2025.

FOR FURTHER INFORMATION CONTACT:

Rachel Accorsi or Shane Subler, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3149 or (202) 482–6241, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this administrative review on August 12, 2024.¹ On November 7, 2024, Commerce issued the Post-Preliminary Analysis.² On November 19, 2024, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the deadline for issuing the final results until February 4, 2025.³ Additionally, on December 9, 2024, Commerce tolled the deadline to issue the final results in this administrative review by 90 days.⁴ On May 2, 2025, Commerce extended the deadline for issuing the final results

¹ See *Certain Corrosion-Resistant Steel Products From the Republic of Korea: Preliminary Results of the Countervailing Duty Administrative Review; 2022*, 89 FR 65586 (August 12, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Decision Memorandum for the Post-Preliminary Analysis of the Countervailing Duty Administrative Review of Certain Corrosion-Resistant Steel Products from the Republic of Korea; 2022,” dated November 7, 2024 (Post-Preliminary Analysis).

³ See Memorandum, “Certain Corrosion-Resistant Steel Products from the Republic of Korea: Extension of Deadline for Final Results of Countervailing Duty Administrative Review,” dated November 19, 2024.

⁴ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated December 9, 2024.

¹² We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹³ See *APO and Service Final Rule*.

until May 9, 2025.⁵ For a description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁶

Scope of the Order⁷

The product covered by this *Order* is CORE from Korea. For a complete description of the scope of this *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in interested parties' case briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised by parties, and to which Commerce responded in the Issues and Decision Memorandum, is provided in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum, we made certain revisions to the subsidy calculations for KG Dongbu Steel Co., Ltd. (KG Dongbu). As a result of the changes to KG Dongbu's preliminary subsidy rate, the final subsidy rate for the five non-selected companies under review also changed.⁸

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of

the Act. For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁹ For a description of the methodology underlying all of Commerce's conclusions, see the Issues and Decision Memorandum.

Partial Rescission of Review

Commerce's practice is to rescind an administrative review of a countervailing duty (CVD) order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.¹⁰ Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate calculated for the review period.¹¹ Therefore, for an administrative review of a company to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the CVD assessment rate calculated for the review period.

In the *Preliminary Results*, we found the following two companies subject to this review did not have reviewable entries during the POR for which liquidation is suspended: (1) SeAH Steel Corporation; and (2) POSCO International. Accordingly, pursuant to 19 CFR 351.213(d)(3), we stated our intention to rescind the review with respect to these companies in the final results.¹² On November 19, 2024, we received comments from POSCO, POSCO International, POSCO Coated & Color Steel Co., Ltd., and POSCO Steeleon Co., Ltd. (collectively POSCO) claiming that POSCO International had entries of subject merchandise during the POR.¹³ After reviewing these comments, we find that POSCO

International had reviewable entries of subject merchandise during the POR for which liquidation is suspended. Therefore, we are not rescinding this administrative review with respect to POSCO International. Because there is no evidence on the record that SeAH Steel Corporation had entries, exports, or sales of subject merchandise during the POR, and no party filed comments with respect to our preliminary determination regarding this company, we are rescinding this review with respect to SeAH Steel Corporation, consistent with 19 CFR 351.213(d)(3).

Companies Not Selected for Individual Review

There are five companies for which a review was requested, but which were not selected as mandatory respondents or found to be cross-owned with a mandatory respondent. These companies are: (1) POSCO; (2) POSCO Coated & Color Steel Co., Ltd.; (3) POSCO Steeleon Co., Ltd.; (4) POSCO International; and (5) SeAH Coated Metal Corporation. For these five companies, because the rates calculated for mandatory respondents KG Dongbu and Hyundai Steel Company were above *de minimis* and not based entirely on facts available, we applied a final subsidy rate based on a weighted average of the rates calculated for the two mandatory respondents using the publicly ranged sales data they submitted on the record. This methodology for establishing the subsidy rate for the non-selected companies is consistent with our practice and with section 705(c)(5)(A) of the Act.

Final Results of Review

We determine that, for the period January 1, 2022, through December 31, 2022, the following total net countervailable subsidy rates exist:

Producer/exporter	Subsidy rate (percent <i>ad valorem</i>)
KG Dongbu Steel Co., Ltd.; KG Steel Corporation	4.02

⁵ See Memorandum, "Extension of Deadline for Final Results of Countervailing Duty Administrative Review," dated May 2, 2025.

⁶ See Memorandum, "Issues and Decision Memorandum for the Final Results and Partial Rescission of the 2022 Administrative Review of the Countervailing Duty Order on Certain Corrosion-Resistant Steel Products from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁷ See *Certain Corrosion-Resistant Steel Products from India, Italy, the Republic of Korea and the People's Republic of China: Countervailing Duty Orders*, 81 FR 48387 (July 25, 2016) (*Order*).

⁸ For details on the changes made since the *Preliminary Results*, see the Issues and Decision Memorandum.

⁹ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

¹⁰ See, e.g., *Lightweight Thermal Paper from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review*; 2015, 82 FR 14349 (March 20, 2017); see also *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review*; 2017, 84 FR 14650 (April 11, 2019).

¹¹ See 19 CFR 351.212(b)(2).

¹² See *Preliminary Results*, 89 FR at 65587.

¹³ See POSCO's Letter, "POSCO Case Brief," dated November 19, 2024.

¹⁴ We treated Hyundai Steel, Hyundai Steel Company, and Hyundai Steel Co., Ltd. as minor variations of the same name at respondent selection. See Memorandum, "Respondent Selection," dated October 20, 2023, at Attachment; see also *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 62322, 62333 (September 11, 2023).

Producer/exporter	Subsidy rate (percent <i>ad valorem</i>)
Hyundai Steel Company ¹⁴	2.27
Review-Specific Rate Applicable to Non-Selected Companies	
POSCO	2.97
POSCO Coated & Color Steel Co., Ltd	2.97
POSCO International	2.97
POSCO Steeleon Co., Ltd	2.97
SeAH Coated Metal Corporation	2.97

Disclosure

Commerce intends to disclose the calculations performed in connection with the final results of review to interested parties in this proceeding within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and CBP shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review, for the above-listed companies at the applicable *ad valorem* assessment rates listed for the POR (*i.e.*, January 1, 2022, to December 31, 2022). Commerce intends to issue assessment instructions to CBP for these companies no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Rates

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for the POR for each of the respective companies listed above on shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms subject to the *Order*, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as

appropriate. These cash deposit requirements, effective upon the publication of the final results of this review, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: May 9, 2025.
Abdelali Elouaradia,
Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

- List of Topics Discussed in the Issues and Decision Memorandum**
- I. Summary
 - II. Background
 - III. Rescission of Administrative Review, In Part
 - IV. Scope of the *Order*
 - V. Subsidies Valuation Information
 - VI. Analysis of Programs
 - VII. Discussion of the Issues
 - Comment 1: Whether Dongbu Steel Co., Ltd.'s (Dongbu Steel's) 2015–2018 Debt-to-Equity Swaps Should Be Countervailed
 - Comment 2: Whether Subsidies Prior to Dongbu Steel's Change in Ownership (CIO) Pass Through to KG Dongbu Steel Co., Ltd. (KG Dongbu Steel)
 - Comment 3: Calculation of the Uncreditworthy Benchmark Rate and Unequityworthy Discount Rates

- Comment 4: Whether Commerce Used the Correct Uncreditworthy Rate in the Benefit Calculations for the Long-Term Loan and Bond Restructured in 2019
- Comment 5: Whether the Provision of Korea Emissions Trading System (K-ETS) Permits Is a Countervailable Subsidy
- Comment 6: Whether the Provision of Electricity Is Subsidized by the Government of Korea (GOK)
- Comment 7: Whether the Provision of Electricity for Less Than Adequate Remuneration (LTAR) Program Is Specific
- Comment 8: Whether Commerce Should Rescind the Administrative Review With Respect to POSCO International

VIII. Recommendation
[FR Doc. 2025–08713 Filed 5–15–25; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Certain Frozen Warmwater Shrimp From India: Rescission of Antidumping Duty Administrative Review, in Part; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.
SUMMARY: On April 9, 2024, the U.S. Department of Commerce (Commerce) initiated an administrative review of the antidumping duty (AD) order on certain frozen warmwater shrimp (shrimp) from India for the period of review (POR) February 1, 2023, through January 31, 2024, for 373 companies. Because all interested parties timely withdrew their requests for administrative review for certain companies, we are rescinding this administrative review, in part, with respect to those companies. In addition, we are also rescinding this administrative review with respect to certain other companies because they had no reviewable entries of subject merchandise during the POR. For a list of the companies for which we are rescinding this review based on timely withdrawals of requests for review, *see*

Appendix I to this notice. For a list of the companies for which we are rescinding this review in the absence of suspended entries of subject merchandise during the POR, *see* Appendix II to this notice. For a list of the companies for which the review is continuing, *see* Appendix III to this notice.

DATES: Applicable May 16, 2025.

FOR FURTHER INFORMATION CONTACT:

Aislin Salassi, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1882.

Background

On February 2, 2024, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on shrimp from India for the POR February 1, 2023, through January 31, 2024.¹ In February 2024, Commerce received timely requests, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), to conduct an administrative review of the *Order* from the Ad Hoc Shrimp Trade Action Committee (the petitioner),² the American Shrimp Processors Association (ASPA),³ the U.S. Shrimpers Coalition's (USSC's),⁴ and certain individual companies.⁵ Based

upon these requests, on April 9, 2024, in accordance with section 751(a) of the Act and 19 CFR 351.221(c)(1)(i), Commerce published a notice of initiation in the **Federal Register** covering 373 companies for which Commerce received timely requests for review.⁶

In July 2024, interested parties timely withdrew their requests for an administrative review of certain companies.⁷ However, because there are review requests remaining for each of these companies except those listed in the USSC's withdrawal letter, these companies remain under administrative review. The companies for which all interested parties withdrew their requests are listed in Appendix I.

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. As noted above, certain parties withdrew their requests for review by the 90-day deadline. Accordingly, we are rescinding this administrative review with respect to the companies listed in Appendix I.

Further, pursuant to 19 CFR 351.213(d)(3), Commerce's practice is to rescind an administrative review of an AD order where it concludes that there were no suspended entries of subject merchandise during the POR.⁸ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.⁹ Therefore, for an

administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated antidumping duty assessment rate for the review period.¹⁰ Commerce notified all interested parties of its intent to rescind the instant review regarding the companies listed in Appendix II because there were no reviewable, suspended entries of subject merchandise from these companies during the POR and invited interested parties to comment.¹¹ We received comments from ASPA, which argued that Commerce should not rescind the review for certain companies listed in the Intent to Rescind Memorandum.¹² As a result, Commerce clarified that we do not intend to rescind the review of Growel Processors Private Limited because this company appears in the CBP Data.¹³ However, for other companies listed by ASPA, consistent with our practice, in the absence of any suspended entries of subject merchandise from these companies during the POR, we are rescinding this administrative review for the companies listed in Appendix II, in accordance with 19 CFR 351.213(d)(3).

Assessment

For the companies for which this review is being rescinded, in part,

¹⁰ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F. Supp. 3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the CIT held: "While the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended"; *see also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102, and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that "for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate").

¹¹ See Memorandum, "Notice of Intent to Rescind Review, In Part," dated August 7, 2024 (Intent to Rescind Memorandum).

¹² See ASPA's Letter, "ASPA's Comments on Intent to Rescind," dated August 16, 2024. Subsequently, we issued a clarification to the Intent to Rescind Memorandum. *See* Commerce's Memorandum, "Clarification Regarding Intent to Rescind Memorandum," dated August 22, 2024 (Intent to Rescind Clarification Memorandum). As noted in the Intent to Rescind Memorandum, Commerce relies on CBP entry data on U.S. imports of subject merchandise during the POR that it placed on the record for comment when determining whether there are suspended entries.

¹³ See Intent to Rescind Clarification Memorandum.

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 7366 (February 2, 2024); *see also Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147 (February 1, 2005) (*Order*).

² See Petitioner's Letter, "Request for Administrative Reviews," dated February 27, 2024.

³ See ASPA's Letter, "American Shrimp Processors Association's Request for Administrative Reviews," dated February 29, 2024.

⁴ See the U.S. Shrimpers Coalition's (USSC's) Letter, "Request for Administrative Review," dated February 29, 2024.

⁵ See Devi Fisheries Limited's Letter, "Request for 19th Administrative Review covering the Period from 01st February 2023 to 31st January 2024," dated February 26, 2024; the Indian Producers and Exporters' Letter, "Request for Administrative Reviews for Indian Producers/Exporters (02/01/23–01/31/24)," dated February 27, 2024; B-One Business House Private Limited's (B-One's) Letter, "Request for Administrative Review of B-One During POR February 01, 2023 to January 31, 2024," dated February 28, 2024; Megaa Moda Pvt. Ltd.'s (Megaa Moda's) Letter, "Request for Administrative Review of Megaa Moda Pvt. Ltd. for the POR February 01, 2023 to January 31, 2024," dated February 28, 2024; RSA Marines' Letter, "Request for Administrative Review of RSA Marines During POR February 01, 2023 to January 31, 2024," dated February 29, 2024; and West Coast Frozen Foods Private Limited's (West Coast's) Letter, "Request for Administrative Review of West Coast Frozen Foods Private Limited During POR February 01, 2023 to January 31, 2024," dated February 29, 2024.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 24780 (April 9, 2024).

⁷ See B-One's Letter, "B-One Business House Private Limited ("B-One") Withdrawal of Request for Review of the Antidumping Duty Order on Certain Frozen Warm-water Shrimp from India (A–533–840) for period of February 01, 2023 to January 31, 2024," dated July 8, 2024; Megaa Moda's Letter, "Megaa Moda Pvt Ltd Withdrawal of Request for Review of the Antidumping Duty Order on Certain Frozen Warm-water Shrimp from India (A–533–840) for period of February 01, 2023 to January 31, 2024," dated July 8, 2024; RSA Marines' Letter, "RSA Marines Withdrawal of Request for Review of the Antidumping Duty Order on Certain Frozen Warm-water Shrimp from India (A–533–840) for period of February 01, 2023 to January 31, 2024," dated July 8, 2024; USSC's Letter "Withdrawal of Request for Administrative Review," dated July 8, 2024; and West Coast's Letter, "Withdrawal Request for Administrative Review of West Coast Frozen Foods Private Limited During POR February 01, 2023 to January 31, 2024," dated July 8, 2024.

⁸ See, e.g., *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

⁹ See 19 CFR 351.212(b)(1).

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP no earlier than 35 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: May 12, 2025.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Rescinded Based on Timely Withdrawals of Requests for Review

Premier Mills Private Limited
Ramoji Group of Companies
Ushodaya Enterprises Private Ltd.

Appendix II

Rescinded in the Absence of Suspended Entries of Subject Merchandise During the POR

Aachi Masala Foods (P) Ltd.
Aarshi Overseas Private Ltd.
Abad Fisheries; Abad Fisheries Pvt. Ltd.

ADF Foods Ltd.
Aerath Business Corp.
AJS Enterprises LLP
Al-Hassan Overseas Private Limited
Allana Frozen Foods Pvt. Ltd.
Allanasons Ltd.
Alps Ice & Cold Storage Private Limited
Amarsagar Seafoods Private Limited
Amulya Seafoods
Anantha Seafoods Private Limited
Andaman Sea Foods Pvt. Ltd.
Anjaneya Sea Foods
Apar Industries Limited
Aquamarine Food Products Ltd.
AquaStar Marine Exports
Ariba Foods Pvt. Ltd.
Asvini Agro Exports
Asvini Exports
Aswin Associates
Atlas Fisheries Private Limited
Avanti Feeds Limited
Avla Nettos Exports
Ayshwarya Sea Food Private Limited
B R Traders
Baby Marine Eastern Exports
Baby Marine Exports
Baby Marine International
Baby Marine Sarass
Baby Marine Ventures
Bafna Enterprises
Balasore Marine Exports Private Limited
Bakemill Foods
Baraka Overseas Traders
Basu International
BB Estates & Exports Private Limited
Bell Foods (Marine Division); Bell Exim Private Limited (Bell Foods (Marine Division))
Bergwerff Organic India Private Limited
Bhatsons Aquatic Products
Bhavani Seafoods
Bhimraj Exports Private Limited
Bijaya Marine Products
Bluepark Seafoods Pvt. Ltd.
Blue Sea Resources Private Limited
Bluetide Eservices Pvt., Ltd.
Blue Water Foods & Exports P. Ltd.
Britannia Industries Limited
Britto Seafoods Exp. Pvt. Ltd.; Britto Exports; Britto Exports Pvt. Ltd.
C Private Limited
C.P. Aquaculture (India) Pvt. Ltd.
Canaan Marine Products
CAP Seafoods Private Limited
Capital Foods Private Limited
Capithan Exporting Co.
Cargomar Private Limited
Charoen Pokphand Group Co., Ltd.
Chakri Fisheries Private Limited
Chemmeens (Regd)
Cherukattu Industries (Marine Div); Cherukattu Industries
Choice Canning Company
Cochin Frozen Food Exports Pvt. Ltd.
Cofoods Processors Private Limited
Continental Fisheries India Private Limited
Coreline Exports
Costar Processor
CPF India Private Ltd.
Crystal Sea Foods Private Limited
Danica Aqua Exp. Private Ltd.
Datla Sea Foods
Deepak Nexgen Foods And Feeds Private Limited
Deepmala Marine Exports
Delsea Exports Pvt. Ltd.

Desai Foods Private Ltd.
Devi Sea Foods Limited
DSF Aquatech Private Limited
Eden Garden Exports
Ega Trade Center No. 809
Empire Industries Limited
Entel Food Products Private Limited
Esmario Export Enterprises
Everblue Sea Foods Private Limited
Fair Exp. (India) Pvt., Ltd.
Febin Marine Foods Private Limited; Febin Marine Foods
Fedora Sea Foods Private Limited
Five Star Marine Exports Private Limited
Fouress Food Products Pvt. Ltd.
Frontline Exports Pvt. Ltd.
G A Randerian Ltd.; G A Randerian (P) Limited
Gadre Marine Export P Ltd.
Gaurav International
Galaxy Maritech Exports P. Ltd.
Geo Aquatic Products (P) Ltd.
Ghan Marine Products
GKS Business Associates Private Limited
Global Gourmet Private Limited
Glossy Impex Private Limited
Goana Foods Prop. Cyd Paes
Gokul Overseas Ltd.
Grand Marine Foods
Grandtrust Overseas (P) Ltd.
GVR Exports Pvt. Ltd.
Hari Marine Private Limited
Haripriya Marine Exports Pvt. Ltd.
Heiploeg Seafood India Pvt., Ltd.
HIC ABF Special Foods Pvt. Ltd.
High Care Marine Foods Exports Private Limited
Hiravati Exports Pvt. Ltd.
Hiravati International Pvt. Ltd.
Hiravati Marine Products Private Limited
HMG Industries Ltd.
HN Indigos Private Ltd.
HT Foods Private Limited
Hyson Logistics and Marine Exports Private Limited
India Gills
Indian Aquatic Products
Indo Aquatics
Indo Fisheries
Indo French Shellfish Company Private Limited
Innovative Foods Limited
Intl Exporters Foodparks Private Ltd.
International Freezfish Exports
Jeelani Marine Products
Jinny Marine Traders
Jigar Enterprises
Joecons Marine Exp. Pvt., Ltd.
Jude Foods India Private Limited
K R Sea Foods Private Limited
K.V. Marine Exports
Kanu Krishna Corporation
Karunya Marine Exports Private Limited
Karam Chand Thapar & Bros. Ltd.
Kaushalya Aqua Marine Product Exports Pvt. Ltd.
Kiefer Sea Foods
Kings Infra Ventures Limited
Kings Marine Products
Koluthara Exports Ltd.
Kohinoor Foods Limited
Kumars Foods
Kyobashi Premier Freeze Dry Private Ltd.
Latecoere India Private Ltd.
Libran Foods
Lito Marine Exports Private Limited

Mangala Sea Products
 Manjilas Food Tech Private Ltd.
 Marine Harvest India
 Meghmani Industries Ltd.
 Milsha Sea Products
 Minaxi Fisheries Private Limited
 Minh Phu Group
 MTR Foods
 Naik Frozen Foods Private Limited; Naik Frozen Foods
 Naik Oceanic Exports Pvt. Ltd.; Rafiq Naik Exports Pvt. Ltd.
 Naik Seafoods Ltd.
 Naq Foods India Private Limited
 Nas Fisheries Pvt. Ltd.
 Nector Exp. Pvt., Ltd.
 Nekkanti Mega Food Park Private Limited
 New Faizan Foods
 Nilamel Exp.
 Nine Up Frozen Foods
 Nutrient Marine Foods Limited
 Oceanic Edibles International Limited
 Orchid Marine Exports Private Limited
 Oriental Export Corporation
 Paragon Sea Foods Pvt. Ltd.
 Paramount Seafoods
 Pesca Marine Products Pvt., Ltd.
 Phillips Foods India Private Ltd.
 Pijikay International Exports P Ltd.
 Pohoomal Kewalram Sons Exports Pvt Ltd.
 Poyilakada Fisheries Private Limited
 Pravesh Seafood Private Limited
 Premas Enterprises Private Ltd.
 Premier Exports International
 Premier Marine Foods
 Premier Seafoods Exim (P) Ltd.
 Pridel Pvt., Ltd.
 Protech Organo Foods Private Limited
 RDR Exports
 RF Exports Private Limited
 R.K. Industries IV
 R V R Marine Products Private Limited
 Ram's Assorted Cold Storage Limited
 Raju Exports
 Raunaq Ice & Cold Storage
 Relish Custom Foods
 Rising Tide
 Riyarchita Agro Farming Private Limited
 Rizwan Ice & Cold Storage Partnership Firm Pvt Ltd.
 Ronisha Exp.
 Royal Exports
 Royalux Exports Private Limited
 Rupsha Fish Private Limited
 Ruthi Imp. & Exp.
 S Chanchala Combines
 Safera Food International
 S.H. Marine Exim
 Sagar Marine Imp. & Exp.
 Sagar Samrat Seafoods
 Sahada Exports
 Sai Aquatechs Private Limited
 Sai Sea Foods
 Salet Seafoods Pvt. Ltd.
 Samaki Exports Private Limited
 Sanchita Marine Products Private Limited
 Sandy Bay Seafoods India Private Limited
 Sassoondock Matsyodyog Sahakari Society Ltd.
 Sas Exports
 Sea Doris Marine Exports
 Seagold Overseas Pvt. Ltd.
 Seasaga Enterprises Private Limited; Seasaga Group
 Seaeyes Stem Limited
 Sealands

Seema Enterprises
 Sheseema Exp.
 Shimpo Seafoods Private Limited
 Shiva Frozen Food Exp. Pvt. Ltd.
 Shree Ram Agro Industries
 Shroff Processed Food & Cold Storage P Ltd.
 Silver Seafood
 Sita Marine Exports
 SKML Exim Private Limited
 SMD Rays
 Sonia Fisheries
 Sonia Marine Exports Private Limited
 Sresta Natural Bioproducts Pvt., Ltd.
 Sri Sakthi Cold Storage
 Sri Ayyanar Exp.
 Sri Sai Marine Exp.
 Srikanth International
 SSF Ltd.
 St. Peter and Paul Sea Food Exports Private Limited
 Star Agro Marine Exports Private Limited
 Star Organic Foods Private Limited
 Stellar Marine Foods Private Limited
 Sterling Foods
 Subu Sea Foods
 Sun Agro Exim
 Sunrise Aqua Food Exports
 Supran Exim Private Limited
 Suvarna Rekha Exports Private Limited
 Suvarna Rekha Marines P Ltd.
 Swadam Exp. (Opc) Pvt., Ltd.
 TBR Exports Private Limited
 Teekay Marines Private Limited; Teekay Marine P. Ltd
 Tej Aqua Feeds Private Limited
 Torry Harris Seafoods Ltd.
 TRDP Happy World Private Limited
 Triveni Fisheries P Ltd.
 U & Company Marine Exports
 Ulka Sea Foods Private Limited
 Uniroyal Marine Exports Limited
 Unitriveni Overseas Private Limited;
 Unitriveni Overseas
 Uniloids Biosciences Private Limited
 Upasana Exports
 Vaibhav Global Ltd.
 Vasai Frozen Food Co.
 Veronica Marine Exports Private Ltd.
 Victoria Marine & Agro Exports Ltd.
 Vinner Marine
 Vitality Aquaculture Pvt. Ltd.
 Vivek Agro Products
 VKM Foods Private Limited
 VRC Marine Foods LLP
 West Coast Fine Foods (India) Private Limited
 West Coast Frozen Foods Private Limited

Appendix III

Companies Remaining Subject to the Review

Abad Overseas Private Limited.
 Accelerated Freeze Drying Co., Ltd.
 Akshay Food Impex Private Limited
 Alashore Marine Exports (P) Ltd.
 Albys Agro Private Limited
 Alpha Marine
 Amaravathi Aqua Exports Private Ltd.
 Ananda Aqua Applications; Ananda Aqua Exports (P) Limited; Ananda Foods
 Ananda Enterprises (India) Private Limited
 Aparna Marine Exports
 Apex Frozen Foods Limited
 Aquatica Frozen Foods Global Pvt. Ltd.
 Arya Sea Foods Private Limited
 Asvini Fisheries Ltd.; Asvini Fisheries Private Ltd.

Avanti Frozen Foods Private Limited
 Blue-Fin Frozen Foods Pvt Ltd.
 BMR Exports; BMR Exports Private Limited
 BMR Industries Private Limited
 B-One Business House Pvt. Ltd.
 Calcutta Seafoods Pvt. Ltd.; Bay Seafood Pvt. Ltd.; Elque Ventures Private Limited
 Castlerock Fisheries Ltd.
 Choice Trading Corporation Pvt. Ltd.
 Coastal Aqua Private Limited
 Coastal Corporation Ltd.
 Corlim Marine Exports Private Limited
 Crystalnova Foods Pvt., Ltd.
 Devi Fisheries Limited; Satya Seafoods Private Limited; Usha Seafoods; Devi Aquatech Private Limited
 Diamond Seafoods Exports; Edhayam Frozen Foods Pvt. Ltd.; Kadalkanny Frozen Foods; Theva & Company
 DN Sea Shells Private Limited
 Dwaraka Sea Foods
 Falcon Marine Exports Limited; KR Enterprises
 Food Products Pvt., Ltd.; Parayil Food Products Pvt., Ltd.
 Forstar Frozen Foods Private Limited
 Geo Seafoods
 Godavari Mega Aqua Food Park Private Limited
 Green Asia Impex Private Limited
 Growel Processors Private Limited ¹⁴
 Highland Agro Food Private Limited
 Hyson Exports Private Limited
 IFB Agro Industries Ltd.
 ITC Ltd.
 Jagadeesh Marine Exports
 Jaya Lakshmi Sea Foods Pvt. Ltd.
 Kader Exports Private Limited
 Kalyan Aqua & Marine Exp. India Pvt. Ltd.
 Kay Kay Exports; Kay Kay Foods
 KNC Agro Limited; KNC AGRO PVT. LTD.
 LNSK Greenhouse Agro Products LLP
 Magnum Export; Magnum Exports Pvt. Ltd.
 Magnum Sea Foods Limited; Magnum Estates Limited; Magnum Estates Private; Magnum Estates Private Limited
 Mangala Marine Exim India Pvt. Ltd.
 Mangala Seafoods; Mangala Sea Foods
 Megaa Moda Pvt. Ltd.
 Milesh Marine Exports Private Limited
 Milsha Agro Exports Pvt. Ltd.
 Mindhola Foods LLP
 MMC Exports Limited
 Monsun Foods Pvt. Ltd.
 Mourya Aquex Pvt. Ltd.
 Munnangi Seafoods (Pvt) Ltd.
 Naga Hanuman Fish Packers
 Nanak Nutritions Food (Taloja) Pvt., Ltd.
 Neeli Aqua Private Limited
 Nekkanti Sea Foods Limited
 Nezami Rekha Sea Foods Private Limited;
 Nezami Rekha Sea Food Private Limited
 Nila Sea Foods Exports; Nila Sea Foods Pvt. Ltd.
 N.K. Marine Exports LLP
 Parayil Food Products Private Limited
 Pasupati Aquatics Private Limited
 Penver Products (P) Ltd.
 Rajyalakshmi Marine Exports
 Razban Seafoods Ltd.
 Royal Imports and Exports
 Royale Marine Impex Pvt. Ltd.
 RSA Marines; Royal Oceans

¹⁴ See Intent to Rescind Clarification Memorandum.

S.A. Exports
 Sagar Grandhi Exports Pvt. Ltd.
 Sai Marine Exports Pvt. Ltd.
 Sam Aqua Exports LLP
 Sandhya Aqua Exports Pvt. Ltd.; Sandhya Aqua Exports
 Sandhya Marines Limited
 Satish Marine Exim Private Limited
 Sea Foods Private Limited
 Sharat Industries Ltd.
 Shimpo Exports Private Limited
 Shree Datt Aquaculture Farms Pvt. Ltd.
 Sigma Seafoods
 Southern Tropical Foods Pvt. Ltd.
 Sprint Exports Pvt. Ltd.
 Sreeragam Export Private Limited
 Summit Marine Exports Private Limited
 Sunrise Seafoods India Private Limited
 Suryamitra Exim Pvt. Ltd.
 The Waterbase Ltd.
 V.V. Marine Products
 Vaisakhi Bio-Marine Private Limited
 Varma Marine Private Limited
 Vasista Marine
 Veerabhadra Exports Private Limited
 Wellcome Fisheries Limited
 Z.A. Sea Foods Pvt. Ltd.
 Zeal Aqua Limited

[FR Doc. 2025–08721 Filed 5–15–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824]

Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India: Final Results of Antidumping Duty Administrative Review; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Jindal Poly Films Ltd. (Jindal) made sales of polyethylene terephthalate film, sheet, and strip (PET film) from India in the United States at prices below normal value (NV) during the period of review (POR), July 1, 2022 through June 30, 2023, and that SRF Limited/SRF Limited of India/SRF Limited Packaging Films (SRF) did not make sales of subject merchandise in the United States at prices below NV during the POR.

DATES: Applicable May 16, 2025.

FOR FURTHER INFORMATION CONTACT: Jacob Saude, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0981.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 2024, Commerce published in the **Federal Register** the preliminary results of the 2022–2023 administrative review of the antidumping duty order on PET film from India.¹ On December 6, 2024, Commerce issued a post-preliminary decision memorandum finding that JPFL Films Private Limited (JPFL) is the successor-in-interest to Jindal.² We conducted an on-site verification of Jindal's responses³ and SRF's responses⁴ in December 2024.

We invited interested parties to submit case and rebuttal briefs.⁵ On March 31, 2025, we received a timely case brief from SRF.⁶ On April 7, 2025, we received a timely case brief from DuPont Teijin Films, Mitsubishi Chemical America, Inc.—Polyester Film Division, and SK Microworks America, Inc. (collectively, petitioners).⁷ Finally, SRF submitted a timely rebuttal brief on April 16, 2025.⁸

On November 5, 2024, we fully extended the deadline of the final results of this administrative review until February 5, 2025.⁹ On December 9, 2024, we tolled the deadlines for issuing the final results in this proceeding by 90 days.¹⁰ The final results are now due on May 12, 2025.

¹ See *Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results of Antidumping Duty Administrative Review and Rescission of Review, in Part; 2022–2023*, 89 FR 65845 (August 13, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Post-Preliminary Decision Memorandum for the Antidumping Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India; 2022–2023,” dated December 6, 2024.

³ See Memorandum, “Verification of the Sales Response of Jindal Poly Films Limited in the Antidumping Review of Polyethylene Terephthalate Film, Sheet, and Strip from India,” dated March 21, 2025.

⁴ See Memorandum, “Verification of the Sales Response of SRF Limited in the Antidumping Review of Polyethylene Terephthalate Film, Sheet, and Strip from India,” dated January 30, 2024.

⁵ See Memorandum, “Briefing Schedule,” dated March 24, 2025; see also, Memorandum “Revising the Briefing Schedule,” dated March 31, 2025.

⁶ See SRF's Letter, “Re: PET Films from India: Case brief of SRF Limited,” dated March 31, 2025.

⁷ See Petitioner's Letter, “Re: Polyethylene Terephthalate (PET) Film, Sheet, and Strip From India: Case Brief,” dated April 7, 2025.

⁸ See SRF's Letter, “Re: PET Films from India: Rebuttal Case Brief of SRF Limited,” dated April 16, 2025.

⁹ See Memorandum, “Polyethylene Terephthalate Film, Sheet and Strip from India: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2022–2023,” dated November 5, 2024.

¹⁰ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated December 9, 2024.

Scope of the Order¹¹

The products covered by the *Order* are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded, from India. A complete description of the scope of the *Order* is contained in the Issues and Decision Memorandum.¹²

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs filed in this administrative review in the Issues and Decision Memorandum. For a list of the issues raised by interested parties, see the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties, and for the reasons explained in the Issues and Decision Memorandum, we made certain changes to the margin calculations for SRF for the final results of review. Further, due to Jindal's lack of preparation at verification and failure to provide requested information in a timely manner at verification, we have applied facts available to Jindal, in accordance with section 776(a) of the Tariff Act of 1930, as amended (the Act), because Jindal's responses could not be verified, Jindal withheld information requested by Commerce, failed to provide information within the deadlines for submission of the information, and significantly impeded this proceeding. As such, Commerce determines that an adverse inference is warranted in selecting from among the facts otherwise available pursuant to section 776(b) of the Act because Jindal failed to cooperate to the best of its ability. For a discussion of these

¹¹ See *Notice of Amended Final Antidumping Duty Determination of Sales at Less than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, sheet, and Strip from India*, 67 FR 44175 (July 1, 2002) (*Order*).

¹² See Memorandum, “Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from India; 2022–2023,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

changes, *see* the Issues and Decision Memorandum.

Final Results of Review

As a result of this review, Commerce determines the following estimated

weighted-average dumping margins for the period July 1, 2022, through June 30, 2023:

Producer/exporter	Weighted-average dumping margin (percent)
Jindal Poly Films Ltd./Jindal Poly Films/Jindal Poly Films Limited India/JPFL Films Private Limited	24.14
SRF Ltd./SRF Limited of India/SRF Limited Packaging Films ¹³	0.00

Disclosure

Commerce intends to disclose to the parties in a proceeding the calculations performed in connection with the final results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in this review, in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is either zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Accordingly, because the weighted-average dumping margin for SRF is zero percent, we will instruct CBP to liquidate SRF's entries without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2).

Pursuant to Commerce's practice, we will instruct CBP to liquidate entries from Jindal at 24.14 percent. For entries of subject merchandise during the POR produced by Jindal for which it did not know that the merchandise it sold to an intermediary (e.g., reseller, trading company, or exporter) was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate (i.e., 5.71)¹⁴ if there is no rate for

the intermediate company(ies) involved in the transaction.¹⁵

Commerce intends to issue appropriate assessment instructions directly to CBP no earlier than 35 days after the date of publication of the final results of this administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is zero or *de minimis*, then no cash deposit will be required); (2) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this or any previous review or in the original less-than-fair-value (LTFV) investigation but the producer is, the cash deposit rate will be the rate established in the most recently completed segment of this proceeding for the producer of the subject merchandise; and (5) if neither the exporter nor the producer is a firm covered in this or any previous review or the LTFV investigation, the cash

deposit rate will continue to be the all-others rate of 5.71 percent, which is the all-others rate established by Commerce in the LTFV investigation.¹⁶ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These results are being issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5).

¹³ In the last administrative review, Commerce found, based on information provided by SRF, that SRF is most appropriately reviewed as SRF Limited/SRF Limited of India/SRF Limited Packaging Films. *See Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review; Second Correction 2021–2022*, 89 FR 7684, 7685 (February 5, 2024).

¹⁴ *See Order* (showing the dumping margin computed for all other producers/exporters as 24.14 percent); and *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 67 FR 34899, 34901 (showing an adjustment of 18.43 percent for export subsidies found in the companion countervailing duty investigation). The cash deposit rate for all other exporters is the net of these figures (i.e., 5.71 percent). *See Notice of Amended Final Antidumping Duty Determination*

of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India, 67 FR 44175 (July 1, 2002).

¹⁵ For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁶ *See Order*.

Dated: May 12, 2025.
Christopher Abbott,
Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Use of Facts Otherwise Available and Adverse Inferences
- V. Changes Since the Preliminary Results
- VI. Discussion of the Issues
 - Comment 1: Whether Commerce Should Apply Total Adverse Facts Available (AFA) to Jindal
 - Comment 2: Whether Commerce Should Continue to Exclude Certain U.S. Sales from SRF's Calculations
 - Comment 3: Whether Commerce Revise SRF's Freight Revenue Cap Calculations
 - Comment 4: Whether Commerce Should Revise SRF's Home Market Program to Account for Returns
- VII. Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration
[C–580–882]

Certain Cold-Rolled Steel Flat Products From the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Hyundai Steel Co., Ltd. (Hyundai Steel) and POSCO/POSCO International Corporation (POSCO International) (collectively POSCO), producers/exporters of certain cold-rolled steel flat products (cold-rolled steel) from the Republic of Korea (Korea), received countervailable subsidies during the period of review (POR) January 1, 2022, through December 31, 2022.

DATES: Applicable May 16, 2025.

FOR FURTHER INFORMATION CONTACT: Samuel Evans, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2420.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2024, Commerce published the *Preliminary Results* of

this administrative review in the **Federal Register** and invited interested parties to comment.¹ On December 9, 2024, Commerce tolled certain deadlines in this administrative proceeding by 90 days. The deadline for issuing these final results is now May 9, 2025. For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.³

Scope of the Order⁴

The merchandise covered by this Order is cold-rolled steel from Korea. For a complete description of the scope of the Order, see Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in interested parties' case briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Changes Since the Preliminary Results

Based on comments received from interested parties, we made certain changes to POSCO's countervailable subsidy rate calculation from the *Preliminary Results*.⁵

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs

found countervailable, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶ For a full description of the methodologies underlying all of Commerce's conclusions, see the Issues and Decision Memorandum.

Final Results of Administrative Review

We determine that, for the period January 1, 2022, through December 31, 2022, the following total net countervailable subsidy rates exist:

Producer/exporter	Subsidy rate (percent <i>ad valorem</i>)
Hyundai Steel Company ⁷	2.21
POSCO/POSCO International Corporation ⁸	1.47
KG Dongbu Steel Co., Ltd ...	1.73

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review, for the above-listed companies at the applicable *ad valorem* assessment rates listed. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is

¹ See *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*; 2022, 89 FR 82566 (October 11, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

³ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Certain Cold-Rolled Steel Flat Products from the Republic of Korea; 2022,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See *Certain Cold-Rolled Steel Flat Products from Brazil, India, and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (the Republic of Korea) and Countervailing Duty Orders (Brazil and India)*, 81 FR 64436 (September 20, 2016) (*Order*).

⁵ For a full description of these revisions, see the Issues and Decision Memorandum.

⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ As discussed in the *Preliminary Results* PDM, Commerce has found the following companies to be cross-owned with Hyundai Steel: Hyundai ITC and Hyundai Green Power Co. Ltd.

⁸ As discussed in the *Preliminary Results* PDM, Commerce has found the following companies to be cross-owned with POSCO: POSCO Chemical Co., Ltd.; POSCO M-Tech; Pohang Scrap Recycling Distribution Center Co., Ltd.; POSCO Nippon Steel RHF Joint Venture Co., Ltd.; POSCO Holdings; and POSCO Mobility Solution. We note that POSCO also exported certain subject merchandise through an affiliated trading company, POSCO International. We examined POSCO International in the context of POSCO, and POSCO International's subsidies are accounted for in POSCO's total subsidy rate.

filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Rates

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for the companies listed above on shipments of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the all-others rate or most recent company-specific rate applicable to the company, as appropriate. These cash deposits, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: May 9, 2025.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Subsidies Valuation
- V. Analysis of Programs
- VI. Discussion of the Issues
 - Comment 1a: Whether Electricity Is Subsidized by the Government of Korea (GOK)
 - Comment 1b: Whether the Provision of Electricity for Less-Than-Adequate-Remuneration (LTAR) Program is *De Facto* Specific

- Comment 2: Whether the Provision of Korea Emissions Trading System (K-ETS) Permits is Countervailable
- Comment 3: Whether the Benchmark Calculation for Electricity for More Than Adequate Remuneration (MTAR) Correctly Reflects the Volume of Electricity Purchased
- Comment 4: Whether Certain Tax Exemptions, Import Duty Exemptions, and Loans are Tied to the Production of Non-Subject Merchandise
- Comment 5: Whether to Modify the Calculation of the Benefit to POSCO Under the Industrial Technology Innovation and Promotion Act (ITIPA) Program

VII. Recommendation

[FR Doc. 2025–08812 Filed 5–15–25; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE849]

Taking Marine Mammals Incidental to Ice Road and Ice Trail Construction, Operation, and Maintenance Activities on Alaska's North Slope

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from Hilcorp Alaska, LLC (Hilcorp) for authorization to take marine mammals incidental to ice road and trail construction, operation, and maintenance activities along the Beaufort Sea coast, Alaska, for a period of 5 years (2025–2030). Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of Hilcorp's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on Hilcorp's application and request.

DATES: Comments and information must be received no later than June 16, 2025.

ADDRESSES: Comments on the application should be addressed to the Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to ITP.Pauline@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas> 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.

An electronic copy of Hilcorp's application may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas>. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an immitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On September 12, 2024, NMFS received an application from Hilcorp requesting authorization for take of marine mammals incidental to construction activities associated with sea ice road and trail activities at Northstar Production Facility (Northstar), Spy Island Drillsite (SID), and Oooguruk Drillsite (ODS) located in coastal Beaufort Sea waters off of the north slope of Alaska. We provided comments on the application and Hilcorp submitted a revised version on April 3, 2025. The application was deemed adequate and complete on May 5, 2025. The requested regulations under which we would issue the requested Letter of Authorization (LOA) would be valid for 5 years, December 2025 through November 2030. During the ice-covered season, Hilcorp annually constructs sea ice roads and trails to connect and allow access between West Dock and Northstar. Similarly, Hilcorp builds and utilizes an ice road or trail connecting the Oliktok Production Pad (OPP) and SID and also builds an annual ice road from shore to the ODS. Construction activities and subsequent use and maintenance of ice roads and trails are expected to disturb nearby pinnipeds, potentially resulting in incidental take by Level B harassment or mortality. Therefore, Hilcorp requests authorization to incidentally take marine mammals. This would be the second rule covering the activities described below. The current regulations and associated LOA are effective from December 22, 2020 through November 30, 2025.

Specified Activities

The purpose of Hilcorp’s activities is to transport personnel, equipment and provisions to the off-shore Northstar, SID and ODS production facilities during the winter months when the ocean surface is frozen. The proposed

activities would include the building and maintenance of ice roads, ice trails and adjacent ice pads. Sea ice road construction activities occur 24 hours a day, 7 days a week during the construction phase (approximately 6 weeks), and are halted during unsafe conditions such as high winds or extremely low temperatures. After the roads are completed, Hilcorp would need to conduct maintenance activities anytime, day or night, in order to maintain a safe route of travel. Ice road and trail activities would occur between December 1 and May 31 each year between 2025 and 2030, depending on weather and ice conditions. Take by Level B harassment along with the limited potential for mortality (four instances over 5 years) has been requested for ringed seal (*Phoca hispida*). The Hilcorp application contains mitigation and monitoring measures designed to reduce impacts to marine mammals. The application also contains proposed marine mammal monitoring and reporting plans.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning Hilcorp’s request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by Hilcorp, if appropriate.

Dated: May 13, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2025–08762 Filed 5–15–25; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date deleted from the Procurement List:* June 15, 2025.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely

Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 489–1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Deletions

On 4/11/2025 (90 FR 15456), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O’Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

7930–01–490–7301—Detergent, Laundry,

Biobased with Bleach, Powder

Authorized Source of Supply: Goodwill

Vision Enterprises, Rochester, NY

Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

NSN(s)—Product Name(s):

6850–01–598–1926—Ice Melt/De-Icer, 20 lbs.

Authorized Source of Supply: BOSMA Enterprises, Indianapolis, IN

Contracting Activity: DLA AVIATION, RICHMOND, VA

NSN(s)—Product Name(s):

8470–01–531–3351—Chin Strap w/o Hardware, ACH, Foliage Green

Authorized Source of Supply: Lions Services, Inc., Charlotte, NC

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s):

MR 604—Drinking Straws, Flexible, Clear, 18Oct
 MR 821—Pepper Saver
 MR 832—Tomato Saver Shippers
 MR 839—Saver, Garlic
 MR 10652—Saver, Lime
 MR 10660—Container, Apples and Dip To Go, Includes Shipper 20660
 MR 10703—Berries To Go, Blueberry, Includes Shipper 20730
 MR 10704—Berries To Go, Raspberry, Includes Shipper 20730
 MR 10730—Basket, Fruit Saver, Includes Shipper 20730
 MR 10743—Saver, Cheese, Includes Shipper 20743
 MR 10839—Shipper, Saver, Garlic
 MR 1603—Striped Flex Straws
 MR 11087—Bowl, Collapsible, Pet
 MR 11089—Blanket, Pet, Small
 MR 11090—Disc, Toy, Dog
 MR 11100—Server, Gravy and Sauce, Includes Shipper 21100
 MR 10833—Foldout Tool Flashlight, Includes Shipper 20833
 MR 10836—Barbecue Grill Mat, Includes Shipper 20836
 MR 10840—Disney Marvel Toys, Includes Shipper 20840
 MR 10852—Water Toy Tower, Includes Shipper 20852
 MR 10860—Mosquito Repellent Spray, Includes Shipper 20860
 MR 10861—Soap Dispensing Sponge Holder, Includes Shipper 20861
 MR 10825—Emergency Triangle Work Light, Includes Shipper 20825
 MR 10826—Cordless Work Light, Includes Shipper 20826
 MR 10828—Container, Olive Keeper, Includes Shipper 20828
 MR 10829—Container, Grapes To Go, Includes Shipper 20829
 MR 10830—Leakproof Baking Mat, Includes Shipper 20830
 MR 10831—Container, Carrot and Dip To Go, Includes Shipper 20831
 MR 10816—Marvel Toys, Includes Shipper 20816
 MR 10817—Worklight, Includes Shipper 20817
 MR 10818—Pig Out Car Go Container, Includes Shipper 20818
 MR 10819—Celery & Dip to Go, Includes Shipper 20819
 MR 10820—Mushroom Saver, Includes Shipper 20820
 MR 10822—Popcorn Saver, Includes Shipper 20822
 MR 10823—Popcorn Saver, Includes Shipper 20822
 MR 10808—Ice Cream Bowl, Includes Shipper 20808
 MR 10809—Onion Saver, Includes Shipper 20809
 MR 10810—Snack Bowl, Includes Shipper 20810
 MR 10813—Prep Bowl, 3 Piece, Includes Shipper 20813
 MR 10814—Ice Ball Tray, Includes Shipper 20814

MR 10815—Meat Baller, Includes Shipper 20815

MR 10795—Party Popper Cake Topper, Includes Shipper 20795

MR 10797—Flashlight, Includes Shipper 20797

MR 11509—Pet Collar

MR 10798—Headlamp, Includes Shipper 20798

MR 10799—Egg Scrambler, Includes Shipper 20799

MR 10806—Cutting Board, Includes Shipper 20806

MR 10807—Pantry Basket, Includes Shipper 20807

MR 10788—Super Sifter, Includes Shipper 20788

MR 10789—Pizza Slicer and Server, Includes Shipper 20789

MR 10796—Dish Rack, Compact, Includes Shipper 20796

MR 10791—Pot Lid Stand, Includes Shipper 20791

MR 10792—Twin Juicer, Includes Shipper 20792

MR 10793—Refrigerator Freshener, Includes Shipper 20793

MR 10794—Mini Garden Colander, Includes Shipper 20794

Authorized Source of Supply: Winston-Salem Industries for the Blind, Inc, Winston-Salem, NC

Contracting Activity: Military Resale-Defense Commissary Agency

Service(s)

Service Type: Janitorial/Grounds Maintenance

Mandatory for: Department of Veterans Affairs, VA Regional Office Building, Montgomery, AL

Authorized Source of Supply: Global Connections to Employment, Inc., Pensacola, FL

Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, VBA FIELD CONTRACTING (0010E)

Service Type: Grounds Maintenance Service

Mandatory for: US Coast Guard Station Atlantic City, Atlantic City, NJ

Authorized Source of Supply: Fedcap Rehabilitation Services, Inc., New York, NY

Contracting Activity: U.S. COAST GUARD, TRACEN CAPE MAY(00042)

Service Type: Administrative Service

Mandatory for: Department of Veterans Affairs, Birmingham VA Medical Center, Birmingham, AL

Authorized Source of Supply: Alabama Goodwill Industries, Inc., Birmingham, AL

Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 247-NETWORK CONTRACT OFC 7(00247)

Service Type: Shelf Stocking & Custodial

Mandatory for: Forest Glen Commissary, 6900 Georgia Avenue NW, Washington, DC

Contracting Activity: DEFENSE COMMISSARY AGENCY (DECA),

DEFENSE COMMISSARY AGENCY

Michael R. Jurkowski,
Director, Business Operations.

[FR Doc. 2025-08756 Filed 5-15-25; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and deletes product(s) and services previously furnished by such agencies.

DATES: Comments must be received on or before: June 15, 2025.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489-1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

In accordance with 41 CFR 51-5.3(b), the Committee intends to add this services requirement to the Procurement List as a mandatory purchase only for the contracting activity listed at the location listed with the proposed qualified nonprofit agency as the authorized source of supply. Prior to adding the service to the Procurement List, the Committee will consider other pertinent information, including information from Government personnel and relevant comments from interested parties regarding the Committee's intent to geographically limit this services requirement.

The following service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Service(s)

Service Type: Mail Services

Mandatory for: US Air Force, Postal Service Center, Altus Air Force Base, OK
Authorized Source of Supply: VersAbility Resources, Inc., Hampton, VA
Contracting Activity: U.S. Air Force, 97th Contracting Squadron, Altus AFB, OK

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 5340-00-NIB-0002—Key Blank, Standard, USPS
Authorized Source of Supply: Mississippi Industries for the Blind (Inc.), Jackson, MS
Contracting Activity: U.S. Postal Service, Washington, DC

NSN(s)—Product Name(s):

8105-00-NIB-1412—Aquapad Sand-less Sandbag
 8465-01-630-6365—Reflective Safety Belt, ARMY, Adjustable 31" to 55", Gold/Black
 8465-01-630-6371—Reflective Safety Belt, NAVY, Adjustable 31" to 55", Silver/Black
 8465-01-630-6375—Reflective Safety Belt, AIR FORCE, Adjustable 31" to 55", Silver/Blue
 8465-01-630-6915—Reflective Safety Belt, USMC, Adjustable 31" to 55", Amber/Scarlet
Authorized Source of Supply: Envision, Inc., Wichita, KS
Contracting Activity: DLA Troop Support, Philadelphia, PA

NSN(s)—Product Name(s):

7510-01-682-8095—Monthly Planner, Recycled, Dated 2025, 14-month, 6⁷/₈" x 8³/₄"
 7510-01-682-8105—Professional Planner, Dated 2025, Recycled, Weekly, Black, 8¹/₂" x 11"
 7530-01-693-5566—Weekly Planner Book, Dated 2025, 5" x 8", Black
 7530-01-693-5573—Monthly Desk Planner, Dated 2025, Wire Bound, Non-refillable, Black Cover
 7530-01-693-5581—Weekly Desk Planner, Dated 2025, Wire Bound, Non-refillable, Black Cover
 7530-01-693-5598—Daily Desk Planner, Dated 2025, Wire bound, Non-refillable, Black Cover
 7510-01-682-8101—Wall Calendar, Recycled, Dated 2025, Vertical, 3 Months, 12¹/₄" x 26"
 7510-01-693-5078—Monthly Wall Calendar, Dated 2025, Jan-Dec, 8¹/₂" x 11"
 7510-01-693-5084—Wall Calendar, Dated 2025, Wire Bound w/hanger, 15.5" x 22"
 7510-01-693-5098—Wall Calendar, Dated 2025, Wire Bound w/Hanger, 12" x 17"
 7510-01-695-6113—Dated 2025 12-Month 2-Sided Laminated Wall Planner, 24" x 37"

Authorized Source of Supply: Chicago Lighthouse Industries, Chicago, IL
Contracting Activity: GSA/FAS Admin SVCS Acquisition BR(2, NEW YORK, NY

Service(s)

Service Type: Janitorial/Custodial
Mandatory for: Department of Veterans Affairs, VA Northern California Health Care System, Fairfield Outpatient Clinic, 103 Bodin Circle, Buidling 778, Travis AFB, CA
Authorized Source of Supply: Easter Seal Society of Superior California, Sacramento, CA
Contracting Activity: Veterans Affairs, Department Of, 261-Network Contract OFC21 (00261)

Service Type: Administrative Service
Mandatory for: National Park Service, Harpers Ferry Center, Harpers Ferry, WV
Authorized Source of Supply: Hagerstown Goodwill Industries, Inc., Hagerstown, MD
Contracting Activity: National Park Service, Washington Contracting Office

Service Type: Janitorial/Grounds Maintenance
Mandatory for: Veterans Administration, VA Northern California Health Care, Mare Island Outpatient Clinic, Vallejo, CA
Authorized Source of Supply: Easter Seal Society of Superior California, Sacramento, CA
Contracting Activity: Veterans Affairs, Department Of, 261-Network Contract Ofc21 (00261)

Service Type: Food Service Attendant
Mandatory for: US Air Force, Minnesota Air National Guard, 133rd Airlift Wing, Base Dining Facility, St. Paul, MN
Authorized Source of Supply: AccessAbility, Inc., Minneapolis, MN
Contracting Activity: Dept Of The Army, W7ng USPFO Activity Mn ARNG

Service Type: Mailroom Operation
Mandatory for: Department of Health and Human Services, Hubert H. Humphrey Building, Mary E. Switzer Building, and Wilbur J. Cohen Building, Washington, DC

Authorized Source of Supply: Didlake, Inc., Manassas, VA
Contracting Activity: Office Of The Assistant Secretary For Administration (ASA), Program Support Center Acq Mgmt Svc

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2025-08755 Filed 5-15-25; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement for Army Training Land Retention at Kahuku Training Area, Kawaiiloa-Poamoho Training Area, and Makua Military Reservation, Island of O'ahu, Hawai'i (ID# EISX-007-21-001-1733763715)

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: The Department of the Army (Army) announces the availability of a Final Environmental Impact Statement (Final EIS) regarding its proposed action to retain up to approximately 6,322 acres of land on the island of O'ahu that the Army currently leases from the State of Hawai'i ("State-owned land"). These lands comprise approximately 1,150 acres at Kahuku Training Area (KTA), approximately 4,390 acres at Kawaiiloa-Poamoho Training Area (Poamoho), and approximately 782 acres at Makua Military Reservation (MMR). In accordance with the National Environmental Policy Act (NEPA) and the Hawai'i Environmental Policy Act (HEPA), the Final EIS analyzes the potential direct, indirect, and cumulative impacts of a range of reasonable alternatives that meet the purpose of and need for the proposed action. Because the proposed retention involves State-owned lands, the EIS is a joint NEPA-HEPA document that meets requirements of both statutes. The Army will observe a 30-day waiting period before deciding how much land, if any, it will seek to retain.

DATES: The waiting period for the Final EIS will end 30 days after publication of this Notice of Availability in the **Federal Register** by the U.S. Environmental Protection Agency, at which time the Army can execute a Record of Decision.

ADDRESSES: The Final EIS and informational materials are available on the EIS website at: <https://home.army.mil/hawaii/OahuEIS/project-home>. The public may also review the Final EIS and select materials at the following libraries:

1. Hawai'i State Library, Hawai'i Documents Center, 478 S King Street, Honolulu, HI 96813
2. Kahuku Public and School Library, 56-490 Kamehameha Highway, Kahuku, HI 96731
3. Wahiawā Public Library, 820 California Avenue, Wahiawā, HI 96786
4. Wai'anae Public Library, 85-625 Farrington Highway, Wai'anae, HI 96792

FOR FURTHER INFORMATION CONTACT: Mr. Michael Donnelly, U.S. Army Garrison Hawai'i Public Affairs Office, by telephone at (808) 787-2140 or by email at usarmy.hawaii.nepa@army.mil.

SUPPLEMENTARY INFORMATION: U.S. Army Garrison Hawai'i is home to the 25th Infantry Division (25th ID) and other commands, the mission of which is to deploy and conduct decisive actions in support of unified land operations. 25th ID is based at Schofield Barracks on the island of O'ahu and trains on a

rotational basis at various training areas, including KTA, Poamoho, and MMR.

Located in northeast O'ahu, KTA has been the site of military training since the mid-1950s. Current training activities on State-owned land at KTA include high-density, company-level helicopter training in a tactical environment, large-scale ground maneuver training, and air support training.

Located on the western slopes the Ko'olau Mountains in north-central O'ahu, Poamoho has been the site of military training since 1964. It provides airspace with ravines and deep vegetation for realistic helicopter training.

Located in northwest O'ahu, MMR has been a military training site for nearly 100 years. Tactical training at MMR began in 1941 after the attack on Pearl Harbor and military use continues to this day. Current activities on State-owned land at MMR include maneuver training, the use of restricted airspace for unmanned aerial vehicle training, as well as wildland fire suppression and security activities.

The Army published a Draft EIS on June 7, 2024. Native Hawaiian Organizations, Federal, State, and local agencies and officials, and other stakeholders were invited to participate in the public comment processes for the Draft EIS. The Army held three public meetings for the Draft EIS. Comments and responses to comments are included in the Final EIS.

The Final EIS evaluates the potential impacts of a range of reasonable alternatives:

For KTA—(1) Full Retention (of approximately 1,150 acres); (2) Modified Retention (of approximately 450 acres);

For Poamoho—(1) Full Retention (of approximately 4,390 acres); (2) Modified Retention (of approximately 3,170 acres);

For MMR—(1) Full Retention (of approximately 782 acres); (2) Modified Retention (of approximately 572 acres); (3) Minimum Retention (of approximately 162 acres and 2.4 miles of select range and firebreak roads).

The Final EIS also analyzes the potential impacts of the No-Action Alternative, under which Army use of the leased land would cease altogether when the lease expires in 2029. The Army has identified the preferred alternative as Alternative 2 at KTA and as the No-Action Alternative at Poamoho and MMR. The Army based its preference on public comments, environmental, social, technical, and economic considerations, and the ability of the alternative to meet the mission of the Army.

The Final EIS analyzes: land use; biological resources; cultural resources; cultural practices; hazardous substances and hazardous wastes; air quality and greenhouse gases; noise; geology, topography and soils; water resources; socioeconomic; environmental justice; transportation and traffic; and human health and safety.

The analyses regarding air quality, greenhouse gases, and environmental justice were prepared according to now-rescinded executive orders, and according to Council on Environmental Quality and Army NEPA implementing regulations that have been or are in the process of being rescinded. Because the analyses of air quality, greenhouse gases, and environmental justice were provided to the public for comment, they are included as part of the Final EIS for purposes of transparency and consistency.

The Final EIS indicates that significant adverse impacts could occur on land use (land tenure) and environmental justice at KTA and Poamoho under Alternatives 1 and 2, and at MMR under Alternatives 1, 2, and 3. Significant adverse impacts could occur on cultural practices with a lease or fee simple sale at MMR under Alternatives 1, 2, and 3. Some of the significant impacts for land use (land tenure) could be reduced to less than significant. The Army has identified mitigation measures in the Final EIS to mitigate adverse impacts on cultural practices and environmental justice at MMR. The modified or minimum-retention alternatives could have significant beneficial impacts on land use (land tenure) for land not retained at KTA, Poamoho, and MMR. Impacts of the action alternatives on other resources are less than significant. The No-Action Alternative could have a significant beneficial impact on land use (land tenure) and environmental justice at all areas, and on cultural practices at MMR. The No-Action Alternative could have less than significant impacts on all other resources at the three areas.

The Army distributed the Final EIS to Native Hawaiian Organizations, federal, state, and local agencies and officials, and other stakeholders.

James W. Satterwhite, Jr.,

U.S. Army Federal Register Liaison Officer.

[FR Doc. 2025-08697 Filed 5-15-25; 8:45 am]

BILLING CODE 3711-CC-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Operation and Maintenance of the Willamette Valley System

AGENCY: U.S. Army Corps of Engineers, Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the U.S. Army Corps of Engineers, Portland District (USACE) intends to prepare a Supplemental Environmental Impact Statement (SEIS) to address the directive in the 2024 Water Resources Development Act (WRDA) to formally analyze an alternative that would cease hydropower operations at USACE owned and operated Willamette Valley Projects. The Willamette Valley System (WVS) must operate for its Congressionally authorized project purposes while complying with all applicable laws, including the Endangered Species Act (ESA), to avoid jeopardizing the continued existence of listed species. The USACE will serve as the lead Federal agency for the SEIS.

DATES: The USACE invites Federal and State agencies, Native American Tribes, local governments, interested parties, and the public to submit comments on development of the scope of the SEIS by June 6, 2025.

ADDRESSES: Send written scoping comments to U.S. Army Corps of Engineers, Portland District, P.O. Box 2946, Attn: CENWP-PME-E, Portland, OR 97208-2946. Email comments or requests to be added to the mailing list to: willamette.eis@usace.army.mil. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

FOR FURTHER INFORMATION CONTACT: For questions regarding the SEIS, or special accommodations for scoping process participation, please contact Mr. Garrett Dorsey, Chief of Environmental Planning, (541) 525-4417. For media inquiries, please contact USACE, Portland District, via email at cenwp-pa@usace.army.mil.

SUPPLEMENTARY INFORMATION:

1. *Background.* The WVS consists of 13 multipurpose dams and reservoirs, riverbank protection projects in the Willamette River Basin in Oregon, and hatchery programs to mitigate for effects of the project on fish habitat. USACE

completed the most recent NEPA evaluation for the overall WVS operations and maintenance in April 2025. The Record of Decision for that effort was narrow, including only the necessary interim actions, while the longer-term actions could be compared with an alternative that would cease hydropower operations as directed by section 1326 of the WRDA 2024. USACE will prepare the SEIS in accordance with NEPA (42 U.S.C. 4321) and USACE's NEPA regulations (33 CFR part 230). The USACE received the National Marine Fisheries Service's (NMFS) Biological Opinion for the continued operations and maintenance of the WVS under section 7 of the ESA in December 2024. The SEIS will also include actions included in the 2024 NMFS Biological Opinion that were not previously analyzed. ESA section 7 consultation with U.S. Fish and Wildlife Service is ongoing. Consultation under section 106 of the National Historic Preservation Act is also ongoing. The USACE anticipates making the draft SEIS available for public comment in Fall of 2025.

The USACE invited the Tribes and Federal and State agencies that participated as cooperating agencies for the previous WVS EIS to participate as cooperators on the SEIS. Those Tribes and agencies include: Confederated Tribes of Warm Springs Reservation of Oregon, Confederated Tribes of Grand Ronde Community of Oregon, Confederated Tribes of Siletz Indians, Bonneville Power Administration, National Marine Fisheries Service (NMFS), U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), Oregon Department of Fish and Wildlife, Oregon Water Resources Department, Oregon Department of Environmental Quality, and Oregon Department of Agriculture.

2. Alternatives. The SEIS will include and build off the alternatives developed for the FEIS. USACE will add actions to address the NMFS 2024 Biological Opinion and the Congressional directive in WRDA 2024 to formally analyze an alternative that ceases hydropower operations at the USACE's Willamette Valley dams. Comments received during the scoping comment period will inform the development of additional actions, the new "no-hydropower alternative", and how it is analyzed.

3. Scoping Process/Public Involvement. The public scoping process is to provide information to the public, narrow the scope of analysis to significant environmental issues, solicit agency and public input on alternatives and issues of concern, and ensure full and open participation in scoping for the Draft SEIS. The USACE will hold public scoping meetings during the scoping period. The specific dates, times, and locations of the meetings will be published on the USACE's website for this SEIS: <https://www.nwp.usace.army.mil/WVS-EIS>. Documents and other important information related to the SEIS will be available for review on the USACE's SEIS website.

Jeffrey D. Hall,

Colonel, Corps of Engineers, Deputy Division Commander.

[FR Doc. 2025-08689 Filed 5-15-25; 8:45 am]

BILLING CODE 3720-58-P

DEPARTMENT OF EDUCATION

Applications for New Awards; Expanding Opportunity Through Quality Charter Schools Program—Grants for Credit Enhancement for Charter School Facilities

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2025 for Charter Schools Program (CSP)—Grants for Credit Enhancement for Charter School Facilities (Credit Enhancement).

DATES:

Applications Available: May 16, 2025.

Deadline for Notice of Intent to Apply: Applicants are strongly encouraged but not required to submit a notice of intent to apply by June 16, 2025. Applicants who do not meet this deadline may still apply.

Deadline for Transmittal of Applications: June 25, 2025.

Deadline for Intergovernmental Review: August 25, 2025.

Pre-Application Webinar Information: The Credit Enhancement program intends to hold a webinar to provide technical assistance to interested applicants. Detailed information

regarding this webinar will be provided at <https://www.ed.gov/grants-and-programs/grants-birth-grade-12/charter-school-programs/credit-enhancement-for-charter-school-facilities-program>.

Note: For new potential grantees unfamiliar with grantmaking at the Department, please consult our "Getting Started with Discretionary Grant Applications" web page at <https://www.ed.gov/grants-and-programs/apply-grant/getting-started-discretionary-grant-applications>.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to the Application Submission Instructions section.

FOR FURTHER INFORMATION CONTACT:

Thea Fowles, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202-5970. Telephone: (202) 987-1727. Email: charter.facilities@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

1. Purpose of Program: Through CSP Credit Enhancement grants, the Department provides grants on a competitive basis to eligible public and private nonprofit entities that demonstrate innovative ways to assist *charter schools*¹ with the costs related to acquiring, constructing, and renovating facilities by enhancing the availability of loans and bond financing. Charter schools supported under CSP Credit Enhancement grants provide elementary or secondary education, or both, and may also serve students in *early childhood education programs* or postsecondary students.

Assistance Listing Number: 84.354A.

OMB Control Number: 1810-0775.

Note: The table below highlights key aspects of the funding opportunity in this NIA. Applicants are encouraged to thoroughly review this notice for a detailed listing and description of all competition requirements before submitting an application.

¹ Terms defined in this notice are italicized the first time they are used.

TABLE 1—FUNDING OPPORTUNITY AT-A-GLANCE

Topic	Notes
Application submission deadline	All interested applicants must submit applications in <i>Grants.gov</i> no later than 11:59 p.m. Eastern time on June 25, 2025. Complete instructions on how to register and apply can be found at <i>Grants.gov</i> .
Eligibility	Public entities, private nonprofit entities, and consortia of such entities are eligible to apply.
Funding	Estimated Available Funds: \$60,000,000. Estimated Range of Awards: \$2,000,000 to \$20,000,000 per year. Estimated Average Size of Awards: \$16,000,000. Estimated Number of Awards 3–4. Maximum Award: We will not make an award exceeding \$20,000,000 for a grant project. The Department is not bound by any estimates in this notice.
Competitive Preference Priority (CPP)	There is one CPP for this competition. We award up to an additional 6 points to an application that addresses the CPP. Responding to the CPP is optional.
<i>The full text is in the Priorities section below</i>	CPP: The capacity of charter schools to offer public school choice in those communities with the greatest need for this choice. (Up to 6 points)
Application Requirements	Applicants are required to submit the following program specific forms as part of their application package that can be found on the FY25 Credit Enhancement Grant Competition Page: https://www.ed.gov/grants-and-programs/grants-birth-grade-12/charter-school-programs/credit-enhancement-for-charter-school-facilities-program . • Table 1—Non-Grant Funds Projected to be Generated. • Table 2—Applicant Activity Table for the Most Recently Completed Fiscal Year. • Table 3—Budget Form: Grant Funds Expenditures. • Table 4—Risk Level of Charter Schools Served (required of past grantees only). • Consortium agreements (if applicable).
Selection Criteria	We evaluate applications using selection criteria. The maximum score for all selection criteria is 100 points.
<i>The full text is in the selection criteria section below.</i>	(a) Quality of the Project Design and Significance (35 points). (b) Quality of Project Services (15 points). (c) Capacity (35 points). (d) Quality of Project Personnel (15 points).

2. Award Information:

Type of Award: Discretionary grants.
Estimated Available Funds:

\$60,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards:

\$2,000,000 to \$20,000,000.

Estimated Average Size of Awards:

\$16,000,000.

Maximum Award: We will not make an award exceeding \$20,000,000 for a grant project. The Department may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 3–4.

Note: The Department is not bound by any estimates in this notice.

Project Period: From the start date indicated on the grant award document until the Federal funds and earnings on those funds have been expended for the grant purposes or until financing facilitated by the grant has been retired, whichever is later.

3. *Eligible Applicants:* (a) A public entity, such as a State or local governmental entity; (b) A private, nonprofit entity; or (c) A consortium of entities described in (a) and (b).

Note: If you are a nonprofit organization, under 34 CFR 75.51, you

may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

4. *Priorities:* This notice includes one competitive preference priority.

Competitive Preference Priority: For FY 2025 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 225.12, we award up to an additional 6 points to an application, depending on how well the application addresses the priority.

The *Competitive Preference Priority* is: The capacity of charter schools to offer public school choice in those communities with the greatest need for this choice based on—

(1) The extent to which the applicant would target services to geographic areas in which a large proportion or number of public schools have been identified for comprehensive support and improvement or targeted support and improvement under the ESEA, as amended by the Every Student Succeeds Act (up to 2 points);

(2) The extent to which the applicant would target services to geographic areas in which a large proportion of students perform below proficient on State academic assessments (up to 2 points); and

(3) The extent to which the applicant would target services to communities with large proportions of students from low-income families (up to 2 points).

5. Definitions:

The following definitions apply to this program. The definition of “charter school” is from section 4310 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7221i), and the remainder are from 34 CFR 77.1.

Baseline means the starting point from which performance is measured and targets are set.

Charter school means a public school that—

(1) In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this definition;

(2) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(3) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(4) Provides a program of elementary or secondary education, or both;

(5) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(6) Does not charge tuition;

(7) Complies with the Age

Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly referred to as the "Family Educational Rights and Privacy Act of 1974"), and part B of the Individuals with Disabilities Education Act (IDEA);

(8) Is a school to which parents choose to send their children, and that—

(i) Admits students on the basis of a lottery, consistent with section 4303(c)(3)(A) of the ESEA, if more students apply for admission than can be accommodated; or

(ii) In the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in paragraph (8)(i) of this definition;

(9) Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such State audit requirements are waived by the State;

(10) Meets all applicable Federal, State, and local health and safety requirements;

(11) Operates in accordance with State law;

(12) Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and

(13) May serve students in early childhood education programs or postsecondary students.

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance.

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project.

6. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 225.11 and are as follows:

(a) *Quality of Project Design and Significance (35 points).* In determining the quality of project design and significance, the Secretary considers—

(1) The extent to which the grant proposal would provide financing to charter schools at better rates and terms than they can receive absent assistance through the program;

(2) The extent to which the project goals, objectives, and timeline are clearly specified, measurable, and appropriate for the purpose of the program;

(3) The extent to which the project implementation plan and activities, including the partnerships established, are likely to achieve measurable objectives that further the purposes of the program;

(4) The extent to which the project is likely to produce results that are replicable;

(5) The extent to which the project will use appropriate criteria for selecting charter schools for assistance and for determining the type and amount of assistance to be given;

(6) The extent to which the proposed activities will leverage private or public-sector funding and increase the number and variety of charter schools assisted in meeting their facilities needs more than would be accomplished absent the program;

(7) The extent to which the project will serve charter schools in States with strong charter laws, consistent with the

criteria for such laws in section 4303(g)(2) of the ESEA; and

(8) The extent to which the requested grant amount and the project costs are reasonable in relation to the objectives, design, and potential significance of the project.

(b) *Quality of Project Services (15 points).* In determining the quality of the project services, the Secretary considers—

(1) The extent to which the services to be provided by the project reflect the identified needs of the charter schools to be served;

(2) The extent to which charter schools and chartering agencies were involved in the design of, and demonstrate support for, the project;

(3) The extent to which the technical assistance and other services to be provided by the proposed grant project involve the use of cost-effective strategies for increasing charter schools' access to facilities financing, including the reasonableness of fees and lending terms; and

(4) The extent to which the services to be provided by the proposed grant project are focused on assisting charter schools with a likelihood of success and the greatest demonstrated need for assistance under the program.

(c) *Capacity (35 points).* In determining an applicant's business and organizational capacity to carry out the project, the Secretary considers—

(1) The amount and quality of experience of the applicant in carrying out the activities it proposes to undertake in its application, such as enhancing the credit on debt issuances, guaranteeing leases, and facilitating financing;

(2) The applicant's financial stability;

(3) The ability of the applicant to protect against unwarranted risk in its loan underwriting, portfolio monitoring, and financial management;

(4) The applicant's expertise in education to evaluate the likelihood of success of a charter school;

(5) The ability of the applicant to prevent conflicts of interest, including conflicts of interest by employees and members of the board of directors in a decision-making role;

(6) If the applicant has co-applicants (consortium members), partners, or other grant project participants, the specific resources to be contributed by each co-applicant (consortium member), partner, or other grant project participant to the implementation and success of the grant project;

(7) For State governmental entities, the extent to which steps have been or will be taken to ensure that charter schools within the State receive the

funding needed to obtain adequate facilities; and

(8) For previous grantees under the charter school facilities programs, their performance in implementing these grants.

Note: The 35 available points under this selection criterion will be allocated evenly among the factors applicable to a particular applicant. For example, for an applicant for which none of factors (6) through (8) apply, the 35 available points will be allocated among the first five factors. Similarly, for an applicant that is a State governmental entity that is a previous grantee under the charter school facilities programs, the 35 available points will be allocated evenly among factors (1) through (5), (7), and (8).

(d) *Quality of Project Personnel (15 points).* In determining the quality of project personnel, the Secretary considers—

(1) The qualifications of project personnel, including relevant training and experience, of the project manager and other members of the project team, including consultants or subcontractors; and

(2) The staffing plan for the grant project.

7. *Performance Measures:* The Department has developed the following *performance measures* for the purpose of Department reporting under 34 CFR 75.110:

(a) *Program Performance Measures:*

(1) The performance measures for this program are (i) The amount of funding grantees leverage for charter schools to acquire, construct, and renovate school facilities; and (ii) the number of charter schools served. Grantees must provide information that is responsive to these measures as part of their annual performance reports.

(2) In accordance with 34 CFR 75.110(b), applications must describe:

(i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data.

(ii) The applicant's capacity to collect and report the quality of the performance data, as evidenced by quality data collection, analysis, and reporting in other projects or research.

(b) *Project-Specific Performance Measures.*

Applicants must propose project-specific performance measures and *performance targets* consistent with the objectives of the project and program. In accordance with 34 CFR 75.110(c), applications must include the following:

(1) *Project Specific Performance Measures.* How each proposed project-

specific performance measure would: accurately measure the performance of the project; be consistent with the program performance measures established under paragraph (a) of this section; and be used to inform continuous improvement of the project.

(2) *Baseline data.* (i) Why each proposed baseline is valid and reliable, including an assessment of the quality data used to establish the baseline; or (ii) if the applicant has determined that there are no established baseline data for a particular performance measure, an explanation of why there is no established baseline and of how and when, during the project period, the applicant would establish a valid baseline for the performance measure.

(3) *Performance targets.* Why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

All grantees must submit an annual performance report with information that is responsive to these performance measures.

8. *Program Authority:* Title IV, Part C Section 4304 of the ESEA, as amended (20 U.S.C. 7221c).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200 (Uniform Guidance), as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 225.

II. Supplemental Requirements

1. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see <https://www.ed.gov/about/ed-offices/fofo#Indirect-Cost-Division>.

c. *Administrative Cost Limitation:*

Consistent with section 4304(g) of the ESEA (20 U.S.C. 7221c(g)), an eligible entity may use not more than 2.5 percent of the funds received under this program for the administrative costs of carrying out its responsibilities under this program.

2. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

3. *Funding Restrictions:*

(a) Reserve accounts. Under section 4304(f) of the ESEA, an eligible entity receiving a grant must, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received, other than funds used for administrative costs, in a reserve account established and maintained by the eligible entity for this purpose. Amounts deposited in such account must be used by the eligible entity for one or more of the following purposes: (1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in paragraph (b). (2) Guaranteeing and insuring leases of personal and real property for an objective described in paragraph (b). (3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools. (4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors, and the consolidation of multiple charter school projects within a single bond issue). Funds received and deposited in the reserve account must be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities. Any earnings on funds received must be deposited in the reserve account and used in accordance with this program.

(b) Charter school objectives. Under 20 U.S.C. 7221c(e), an eligible entity receiving a grant must use the funds deposited in the reserve account to assist one or more charter schools to access private sector capital to accomplish one or more of the following objectives: (1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is

necessary to commence or continue the operation of a charter school. (2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school. (3) The predevelopment costs required to assess sites for purposes of paragraph (1) or (2) and that are necessary to commence or continue the operation of a charter school.

(c) Reasonable costs. Grantees must ensure that all costs incurred using funds from the reserve account are reasonable and allowable. We specify unallowable costs in 34 CFR 225.21.

(d) No full faith and credit for grantee obligation. No financial obligation of a grantee under this program (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States are not pledged to the payment of funds that may be required to be paid under any obligation made by a grantee under this program. In the event of a default on any debt or other obligation, the United States has no liability to cover the cost of the default.

(e) Performance Agreement. Grantees must enter into a written Performance Agreement with the Department and may not draw down funds prior to approval of the agreement by the Department, unless the grantee receives written permission from the Department in the interim to draw down a specific limited amount of funds.

(f) Standards of conduct. Grantees must maintain and enforce standards of conduct governing the performance of their employees, officers, directors, trustees, and agents engaged in the selection, award, and administration of contracts or agreements related to this grant. The standards of conduct must mandate disinterested decision-making.

(g) Recovery of funds. The Secretary, in accordance with chapter 37 of title 31 of the United States Code, will collect the funds in the reserve account established with grant funds (including any earnings on those funds) as follows: (1) All or a portion of the funds if the Secretary determines that the grantee has permanently ceased to use such funds to accomplish the purposes described in the authorizing statute and the Performance Agreement; or (2) All of the funds if the Secretary determines that, not earlier than 2 years after the date on which it first receives these funds, the grantee has failed to make substantial progress in undertaking the grant project.

We reference additional regulations outlining funding restrictions in the Applicable Regulations section of this notice.

III. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 23, 2024 (89 FR 104528) and available at <https://www.federalregister.gov/documents/2024/12/23/2024-30488/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs>, which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the *Credit Enhancement competition*, your application may include business information that you consider proprietary. In 34 CFR 5.11, we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Because we plan to post on our website the application narrative sections of successful applications, you may wish to request confidentiality of business information. Consistent with Executive Order 12600 (Predisclosure Notification Procedures for Confidential Commercial Information), please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under “Other Attachments Form,” please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION**

CONTACT with the subject line “Intent to Apply,” and include the applicant’s name and a contact person’s name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

IV. Application Review Information

1. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant’s use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality. In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

2. *Risk Assessment and Specific Conditions:* Before awarding grants under this program the Department conducts a review of the risks posed by applicants. The Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

3. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the System for Award Management’s (SAM) Responsibility/Qualification reports (formerly referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)). You may review and comment on any information about yourself that a

Federal agency previously entered and that is currently in the Responsibility/Qualification reports in SAM.

If the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, appendix XII, require you to report certain integrity information to SAM semiannually. Please review these requirements if this grant plus all the other Federal funds you receive exceed \$10,000,000.

V. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN), or we may send you an email containing a link to access an electronic version of your GAN. We also may notify you informally. If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice. We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the

necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. See the standards in 2 CFR 170.105 to determine whether you are covered by 2 CFR part 170.

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary. The Secretary may also require more frequent performance reports. For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

5. *Project Directors' Meeting:* Applicants approved for funding under this competition must attend a meeting for project directors during each year of the project. The meeting may be held virtually or in person at a location to be determined in the continental United States.

6. *Technical Assistance:* Grantees under this competition must participate in all program technical assistance offerings provided by the Department and its contractual technical assistance providers and partners throughout the life of the project.

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Hayley B. Sanon,

Principal Deputy Assistant Secretary and Acting Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2025-08783 Filed 5-15-25; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Applications for New Awards; Expanding Opportunity Through Quality Charter Schools Program (CSP)—Model Development and Dissemination Grants

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2025 for CSP—Model Development and Dissemination Grants.

DATES:

Applications Available: May 16, 2025.

Application Deadline: July 14, 2025.

Deadline for Intergovernmental Review: September 12, 2025.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to the Application Submission Instructions section.

FOR FURTHER INFORMATION CONTACT:

Sareeta Schmitt, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202-5970.

Telephone: (202) 205-0730. Email: sareeta.schmitt@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

1. *Purpose of Program:* The CSP—Model Development and Dissemination (MDD) Grant Program offers competitive grants to eligible organizations to develop and broadly disseminate essential information about implementing innovative and effective practices of *high-quality charter school*¹ models.

Charter schools supported under the CSP provide elementary or secondary education, or both, and may also serve students in *early childhood education programs* or postsecondary students.

Assistance Listing Number: 84.282G.

OMB Control Number: 1894-0006.

Background: The CSP—Model Development and Dissemination (MDD) Grant Program offers competitive grants to eligible organizations to develop and broadly disseminate information about innovative and effective practices of high-quality charter school models. The Department is establishing this program under the authority to disseminate best practices regarding charter schools in section 4305(a)(3)(B) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). This program supports the Department's efforts to expand access to high-quality education options for our Nation's students and families, ultimately leading to better student outcomes. The program helps

¹ Defined terms are italicized the first time they are used.

accomplish this goal by spreading awareness among teachers, school leaders, and other stakeholders of key strategies of high-performing charter schools and promoting their collaborative adoption in additional school communities.

Charter schools are a key pillar in providing access to education choice, empowering parents and families to seek the best learning environment for their children and fostering innovation in education models that address the unique needs of students across the country. Through this program, the Department is particularly interested in information about strategies and practices of high-quality charter schools that use innovative education models designed to meet the needs of students and provide parents and families with high-quality options for their children.

Unique and innovative school models include charter schools that focus on one or more of the following: classical and civics education; science, technology, engineering, and mathematics (STEM) education, including computer science; career and technical education; or other innovative educational practices with evidence of success; or serving students with unique needs, such as students with disabilities or receiving special education or related services, military-connected students, students living in rural areas, or Native American students.

Proposed projects under this program must focus on at least one stage of the lifecycle of a charter school, which typically involves design and planning, securing authorization, preparing to open (including obtaining a facility), enrollment and operations, achieving

and sustaining student success, and potentially replication or expansion.² Projects must also address key implementation challenges, including how these challenges were overcome. Potential challenges may include obtaining authorizer approval, securing support from parents and the community, enrolling and retaining students, finding suitable facilities, recruiting and retaining a high-quality educator workforce, and improving student outcomes.

Note: The table below highlights key aspects of the funding opportunity in this NIA. Applicants are encouraged to thoroughly review this notice for a detailed listing and description of all competition requirements before submitting an application.

TABLE 1—FUNDING OPPORTUNITY AT-A-GLANCE

Topic	Notes
Application Deadline	All interested applicants must submit applications in <i>Grants.gov</i> no later than 11:59 p.m. Eastern time on July 14, 2025. Complete instructions on how to register and apply can be found at <i>Grants.gov</i> .
Eligibility	Entities eligible to apply include: charter schools (as defined in this notice); charter management organizations (as defined in this notice); State educational agencies; State charter school boards; State Governors; charter school support organizations (as defined in this notice); authorized public chartering agencies (as defined in this notice); and other public and private nonprofit organizations that operate, manage, or support charter schools.
Funding and Project Period	Entities that apply for this competition may apply as a partnership or consortium and if so applying, must comply with the requirements for group applications set forth in 34 CFR 75.127–129. Estimated Available Funds: \$4,000,000. Estimated Range of Awards: \$350,000 to \$500,000 per year. Estimated Average Size of Awards: \$425,000 per year. Estimated Number of Awards: 8–10. Project Period: Up to 60 months. The Department is not bound by any estimates in this notice.
Absolute Priority (AP)	This notice includes one AP. We consider for funding only applications that meet the AP.
<i>The full text of the AP is in the Priority section below.</i>	AP: Development and Dissemination of Information on Innovative and Effective Practices of High-Quality Charter School Models.
Selection Criteria	We evaluate applications using selection criteria. The maximum score for addressing all selection criteria is 100 points.
<i>The full text of the selection criteria is in the Selection Criteria section below.</i>	Selection Criteria: (a) Significance (up to 30 points). (b) Quality of the Project Design (up to 30 points). (c) Quality of the Management Plan and Adequacy of Resources (up to 40 points).

2. *Award Information.*
Type of Award: Discretionary grants.
Estimated Available Funds: \$4,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: \$350,000 to \$500,000 per year.
Estimated Average Size of Awards: \$425,000 per year.
Estimated Number of Awards: 8–10.

Note: The Department is not bound by any estimates in this notice. The estimated range and average size of awards are based on a single 12-month budget period. We may use FY 2025 funds to support multiple 12-month budget periods for one or more grantees.

Project Period: Up to 60 months.

3. *Eligible Applicants for Grants:* We are establishing the eligible entities for this competition in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). Eligible entities include: Charter schools (as defined in this notice); *charter management*

organizations (as defined in this notice); State educational agencies (SEAs); State charter school boards; State Governors; *charter school support organizations* (as defined in this notice); *authorized public chartering agencies* (as defined in this notice); and other public and private nonprofit organizations that operate, manage, or support charter schools.

Entities that apply for this competition may apply as a partnership or consortium and if so applying, must comply with the requirements for group

2 For more information on the lifecycle of a charter school, visit the National Charter School Resource Center's *What is a Charter School?* page: <https://charterschoolcenter.ed.gov/what-charter-school#cycle>.

applications set forth in 34 CFR 75.127–129.

Note: Under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

4. *Priority:* We are establishing this priority for the FY 2025 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1). This priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority. An application must address all parts of the absolute priority to be considered for funding.

The absolute priority is:

Development and Dissemination of Information on Innovative and Effective Practices of High-Quality Charter School Models.

Projects designed to develop and broadly disseminate information on strategies and practices of high-quality charter school models, including challenges in implementing such strategies and practices and how such challenges were overcome. Projects under this priority must disseminate such information by creating a variety of tools and resources (e.g., guides, frameworks, and/or other publications) and sharing them through a variety of formats (e.g., traditional and digital media, workshops) to promote widespread adoption.

To meet this priority, eligible applicants must include the following in their applications.

(1) A description of the strategies and practices of the high-quality charter school model, including—

(a) A description of the specific high-quality charter school model;

(b) Evidence that the model meets requirements for a high-quality charter school under section 4310(8) of the ESEA; and

(c) A description of one or more specific selected strategies or practices of the model to be covered by the proposed project, including—

(i) An identification of the stage(s) of the lifecycle of a charter school (e.g., the design and planning stage) the strategy or practice addresses; and

(ii) A description of how the strategy or practice was developed and implemented, including key challenges in implementing the strategy or practice and how these challenges were overcome.

(2) A description of how the applicant will develop and disseminate information on the selected strategies or practices of the high-quality charter school model, including—

(a) A description of the tools and resources the applicant will create, including how these tools and resources will facilitate replication of the strategies or practices in other charter schools, traditional public schools, or non-public schools, as appropriate; and

(b) A description of the dissemination mechanisms the applicant will use to broadly share these tools and resources, including how the dissemination mechanisms are unique and distinct from what currently exists in the field, as well as the intended reach.

5. *Application Requirement:*

Applications for CSP MDD Grants funds must address the following application requirements, which we establish for FY 2025 and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). An applicant may choose to respond to these requirements in the context of its responses to the absolute priority and selection criteria.

(a) Provide a project plan that includes: a specific timeline for implementing each component of the absolute priority identified in this notice and all proposed grant activities; a *logic model* that describes the purpose of the project based on the absolute priority; clearly specified, measurable project objectives that are aligned with the project purpose; and the specific strategies, behaviors, and initiatives that will be implemented to accomplish project objectives. For each project objective, the project plan must include—

(i) **Inputs and Resources:** Identification of the specific costs that will be allocated to the proposed project. These costs must represent the

inputs and resources (e.g., personnel, contracted services, supplies, and equipment) that are necessary to generate and support grant project activities and are necessary to produce project outputs. Applicants must ensure that the total project costs, as identified in this section, are consistent with the ED 524B budget form and response to selection criteria;

(ii) **Project Activities:** Identification of the specific activities proposed to be funded under the grant; the estimated cost of those activities under the grant project; and how these activities are linked to the target grant project outputs and outcomes;

(iii) **Project Outputs:** Identification of the specific project deliverables, work products, and other outputs of the proposed project, including the cost of those outputs. Examples of outputs include—

(1) Publications (e.g., best practice guides, toolkits, evaluation reports, etc.);

(2) Workshops or presentations at stakeholder conferences; and,

(3) Other forms of traditional and digital media (e.g., videos, webinars, podcasts, blogs, vlogs).

(iv) **Project Outcomes:** Identification of the anticipated project outcomes or effects as a result of the proposed project.

(b) Provide a management plan that describes clearly defined responsibilities, timelines, and milestones for executing the project and achieving project outcomes.

(c) Provide a dissemination plan based on the absolute priority in this notice that includes the number and description of target audience and entities for which best-practices information will be disseminated, as well as a description of the mechanisms the applicant will use to disseminate information on its proposed projects.

(d) Provide an evaluation plan that includes *performance measures* that are aligned to the project purpose, project objectives, and project outcomes as well as to the intended outcomes of the proposed project.

Applications submitted must be for activities related to and consistent with the absolute priority.

5. **Waiver of Proposed Rulemaking:** Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities, selection criteria, definitions, and requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority.

This is the first grant competition for this program under section 4305(a)(3)(B) of the ESEA, and, therefore, this competition qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priority and requirements in this notice in accordance with section 437(d)(1) of GEPA. This priority and requirements will apply to grants awarded under this competition in FY 2025 and any subsequent year in which we make awards from the list of unfunded applications from this competition.

6. *Definitions:* The following definitions are from section 4310 of the ESEA (20 U.S.C. 7221i) and 34 CFR part 77.

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a *performance target* (as defined in this notice), whether a performance target is ambitious depends upon the context of the relevant performance measure (as defined in this notice) and the *baseline* (as defined in this notice) for that measure. (34 CFR 77.1)

Authorized public chartering agency means an SEA, LEA, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school (ESEA section 4310(1)).

Baseline means the starting point from which performance is measured and targets are set. (34 CFR 77.1)

Charter management organization means a nonprofit organization that operates or manages a network of charter schools linked by centralized support, operations, and oversight (ESEA section 4310(3)).

Charter school means a public school that—

(1) In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this definition;

(2) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(3) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(4) Provides a program of elementary or secondary education, or both;

(5) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;^[1]

(6) Does not charge tuition;

(7) Complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), section 444 of General Education Provisions Act (GEPA) (20 U.S.C. 1232g) (commonly referred to as the “Family Educational Rights and Privacy Act of 1974”), and part B of the Individuals with Disabilities Education Act (IDEA);

(8) Is a school to which parents choose to send their children, and that—

(i) Admits students on the basis of a lottery, consistent with section 4303(c)(3)(A) of the ESEA, if more students apply for admission than can be accommodated; or

(ii) In the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in paragraph (8)(i) of this definition;

(9) Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such State audit requirements are waived by the State;

(10) Meets all applicable Federal, State, and local health and safety requirements;

(11) Operates in accordance with State law;

(12) Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and

(13) May serve students in early childhood educational programs or postsecondary students. (ESEA section 4310(2))

Charter school support organization means a nonprofit, nongovernmental entity that is not an authorized public chartering agency and provides, on a statewide basis—

(1) Assistance to developers during the planning, program design, and initial implementation of a charter school; and

(2) Technical assistance to operating charter schools. (ESEA section 4310(4))

High-quality charter school means a charter school that—

(1) Shows evidence of strong academic results, which may include strong student academic growth, as determined by a State;

(2) Has no significant issues in the areas of student safety, financial and operational management, or statutory or regulatory compliance;

(3) Has demonstrated success in significantly increasing student academic achievement, including graduation rates where applicable, for all students served by the charter school; and

(4) Has demonstrated success in increasing student academic achievement, including graduation rates where applicable, for each of the subgroups of students, as defined in section 1111(c)(2) of the ESEA, except that such demonstration is not required in a case in which the number of students in a group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student. (ESEA section 4310(8)).

Logic model (also referred to as theory of action) means a framework that identifies key project components of the proposed project (*i.e.*, the active “ingredients” that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. (34 CFR 77.1)

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance. (34 CFR 77.1)

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project. (34 CFR 77.1)

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.*, training teachers on instructional practices for English learners and follow-on coaching for these teachers). (34 CFR 77.1)

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program. (34 CFR 77.1)

7. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum possible total score an application can receive for addressing the selection criteria is 100 points. The maximum possible score for addressing each criterion is indicated in parentheses following the criterion.

(a) *Significance (up to 30 points).*

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the extent to which the resources, tools, and implementation lessons of the proposed project will be disseminated in ways to the target population and local community that will enable them and others (including practitioners, researchers, education leaders, and partners) to implement similar strategies.

(b) *Quality of the project design (up to 30 points).*

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified, measurable, and ambitious yet achievable within the project period, and aligned with the purposes of the grant program (up to 5 points).

(ii) The quality of the logic model or other conceptual framework underlying the proposed project, including how inputs are related to outcomes (up to 15 points).

(iii) The extent to which the proposed project represents an exceptional approach to any absolute priority or absolute priorities used in the competition (up to 10 points).

(c) *Quality of the management plan and adequacy of resources (up to 40 points).*

The Secretary considers the quality of the management plan and adequacy of resources for the proposed project. In determining the quality of the management plan and adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The feasibility of the management plan to achieve project objectives and goals on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (up to 15 points).

(ii) The extent to which the budget is adequate to support the proposed project, and the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project (up to 10 points).

(iii) The extent to which the project director or principal investigator, when hired, has the qualifications required for the project, including formal training or work experience in fields related to the objectives of the project and experience in designing, managing, or implementing similar projects for the target population to be served by the project (up to 10 points).

(iv) The extent to which the time commitment of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project (up to 5 points).

8. *Performance Measures:* Applicants must propose project-specific performance measures and performance targets consistent with the objectives of the proposed project and the project outcomes identified in the logic model. The project-specific performance measures should be sufficient to gauge progress throughout the grant period, at least on an annual basis, and to show results by the end of the grant period. Applicants must provide the following information as directed under 34 CFR 75.110(b) and (c):

(a) *Project-Specific Performance Measures.* How each proposed performance measure would: accurately measure the performance of the project; be consistent with the performance measures established for the program funding the competition; and be used to inform continuous improvement of the project.

(b) *Baseline Data.* Why each proposed baseline is valid and reliable, including an assessment of the quality data used to establish the baseline; or, if the applicant has determined that there are no valid, established baseline data for a particular performance measure, an explanation of why there is no established baseline and of how and when, during the project period, the applicant would establish a valid baseline for the performance measure.

(c) *Performance targets.* Why each proposed performance target is *ambitious* yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

(d) *Data collection and reporting.* (i) The data collection and reporting methods the applicant would use for the project-specific performance measures and why those methods are likely to

yield reliable, valid, and meaningful performance data; and (ii) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

All grantees must submit an annual performance report with information that is responsive to these performance measures.

9. *Program Authority and Applicable Regulations:*

Program Authority: 4305(a)(3)(B) of the ESEA, 20 U.S.C. 7221d.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200 (Uniform Guidance), as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

II. Supplemental Requirements

1. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program does not involve supplement-not-supplant funding requirements.

c. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see <https://www.ed.gov/about/ed-offices/fofo#Indirect-Cost-Division>.

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

2. *Subgrantees:* A grantee under this program may not award subgrants to entities to directly carry out project activities described in its application.

3. *Reasonable and Necessary Costs:* In accordance with 2 CFR 200.404, applicants must ensure that all costs included in the proposed budget are reasonable and necessary in light of the goals and objectives of the proposed project. Any costs determined by the Secretary to be unreasonable or unnecessary will be removed from the final approved budget.

4. *Funding Restrictions:* Grant funds may be used only for activities that are related to the development and broad dissemination of information on strategies and practices of high-quality charter school models regarding the absolute priority and that are included in the grantee's approved application. Grantees are expected to identify the specific costs associated with each included activity.

Grantees may not use grant funds to conduct charter school authorizing activities, or to open new charter schools. Grantees may not use grant funds to acquire or finance the acquisition of a charter school facility, including through credit enhancement, direct lending, or subgrants.

Grantees may not use grant funds for general organizational operating support beyond the costs associated with this grant project. In accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1), we establish that no more than 5 percent of grant funds may be used for direct administration of the grant project.

5. *Audits:* (i) A non-Federal entity that expends \$1,000,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR part 200. (2 CFR 200.501(a))

(ii) A non-Federal entity that expends less than \$1,000,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office. (2 CFR 200.501(d)).

III. Application and Submission Information

1. Application Submission

Instructions: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 23, 2024 (89 FR 104528), and available at <https://www.federalregister.gov/d/2024-30488>, which

contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for this competition, your application may include business information that you consider proprietary. In 34 CFR 5.11, we define "business information" and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600 (Predisclosure Notification Procedures for Confidential Commercial Information), please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under "Other Attachments Form," please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Pre-Application Webinar Information:* The Department will hold a pre-application meeting via webinar to provide technical assistance to prospective applicants. Detailed information regarding this webinar will be provided at *What's New at CSP*: <https://www.ed.gov/grants-and-programs/charter-schools-program>.

For further information about the pre-application meeting, contact Sareeta Schmitt, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-5970. Telephone: (202) 205-0730. Email: sareeta.schmitt@ed.gov.

IV. Application Review Information

1. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3)(ii), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, completion of grant activities, achievement of project objectives, and

compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality. In assessing the applicant's performance and use of funds under a previous or existing award, the Secretary will consider, among other things, the outcomes the applicant has achieved and the results of any Departmental grant monitoring, including the applicant's progress in remedying any deficiencies identified in such monitoring.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

2. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

3. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the System for Award Management's (SAM) Responsibility/Qualification reports (formerly referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)). You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in the Responsibility/Qualification reports in SAM.

If the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, appendix XII, require

you to report certain integrity information to SAM semiannually. Please review these requirements if this grant plus all the other Federal funds you receive exceed \$10,000,000.

V. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We also may notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. See the standards in 2 CFR 170.105 to determine whether you are covered by 2 CFR part 170.

(b) At the end of your project period, you must submit a final performance report, including financial information,

as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

(c) Under 34 CFR 75.254, the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

6. *Project Directors' Meeting:* Applicants approved for funding under this competition must attend a meeting for project directors during each year of the project. The meeting may be held virtually or in person at a location to be determined in the continental United States. Applicants may include, if applicable, the cost of attending these meetings in their proposed budgets as allowable administrative costs.

7. *Technical Assistance:* Applicants approved for funding under this competition must participate in a learning community for all funded projects. This participation includes attending all technical assistance sessions offered by the CSP Office, including project directors' meetings and other on-site and virtual gatherings sponsored by the Department and its contracted technical assistance providers and partners throughout the performance period.

VI. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Hayley B. Sanon,

Principal Deputy Assistant Secretary and Acting Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2025-08766 Filed 5-15-25; 8:45 am]

BILLING CODE 4000-01-P

ELECTION ASSISTANCE COMMISSION

Agency Information Collection Activities: EAC Federal Financial Report

AGENCY: Election Assistance Commission.

ACTION: Notice; request for comment.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the U.S. Election Assistance Commission (EAC) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the reinstatement of the information collection EAC Federal Financial Report (EAC-FFR).

DATES: Comments must be received by 5 p.m. eastern on Friday, July 18, 2025.

ADDRESSES: Comments on the proposed form should be submitted electronically via <https://www.regulations.gov> (docket ID: EAC-2025-0005).

Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 633 3rd Street NW, Suite 200, Washington, DC 20001, Attn: Office of Grants Management OCFO. All requests and submissions should be identified by the title of the information collection.

FOR FURTHER INFORMATION CONTACT: Tina Bateman, Grants Specialist, Office of Grants Management. Phone: (202) 734-0639, Email: grants@eac.gov. All requests and submissions should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: EAC Federal Financial Report (EAC-FFR); OMB Number: 3265-0022.

Purpose

The EAC Office of Grants Management (EAC/OGM) is responsible for distributing, monitoring, and providing technical assistance to States and grantees on the use of Federal funds. EAC/OGM also reports on how the funds are spent, negotiates indirect cost rates with grantees, and resolves audit findings on the use of HAVA funds.

The EAC–FFR is employed for all financial reports for grants issued under HAVA authority. This format contains no changes to the report or instructions since the most recent non-substantive change in July 2024. The FFR directly benefits award recipients by making it easier for them to administer Federal grant and cooperative agreement programs through standardization of the

types of information required in financial reporting- thereby reducing their administrative effort and costs. The requirement for grantees to report on performance is OMB grants policy. Specific citations are contained in Code of Federal Regulations title 2, part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Public Comments

After obtaining and considering public comment, the EAC will prepare the format for final clearance. Comments are invited on:

- Ways to enhance the quality, utility, and clarity of the information collected from respondents, including through the use of automated collection techniques or other forms of information technology; and

- Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Description: The EAC proposes to collect financial activity data for HAVA. EAC will use this data to ensure grantees are proceeding in a satisfactory manner in meeting the approved goals and purpose of the project.

Respondents: All EAC grantees and State governments.

Annual Reporting Burden

ANNUAL BURDEN ESTIMATES					
EAC grant	Instrument	Total number of respondents	Total number of responses per year	Average burden hours per response	Annual burden hours
251	EAC–FFR	35	2	.5	35
101	EAC–FFR	20	2	.5	20
Election Security	EAC–FFR	56	4	.5	112
HAVCP	EAC–FFR	14	2	.5	14
Total .....	.....	.....	.....	.....	181

The estimated cost of the annualized cost of this burden is: \$4,646.27, which is calculated by taking the annualized burden (181 hours) and multiplying by an hourly rate of \$25.67 (GS–8/Step 5 hourly basic rate).

Camden Kelliher,
General Counsel, U.S. Election Assistance Commission.
[FR Doc. 2025–08787 Filed 5–15–25; 8:45 am]
BILLING CODE 4810–71–P

ELECTION ASSISTANCE COMMISSION

Agency Information Collection
Activities: EAC Budget Expenditures Worksheet

AGENCY: Election Assistance Commission.
ACTION: Notice; request for comment.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the U.S. Election Assistance Commission (EAC) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the extension of the information collection EAC Budget Expenditures Worksheet (EAC–BEW)

and Instructions. The EAC proposes to identify and collect budget and expense activity data for HAVA. EAC will use this data to ensure grantees are proceeding in a satisfactory manner in meeting the approved goals and purpose of the project.

DATES: Comments must be received by 5 p.m. eastern on Friday, July 18, 2025.

ADDRESSES: Comments on the proposed form should be submitted electronically via <https://www.regulations.gov> (docket ID: EAC–2025–0006).

Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 633 3rd Street NW, Suite 200, Washington, DC 20001, Attn: Office of Grants Management OCFO.

All requests and submissions should be identified by the title of the information collection.

FOR FURTHER INFORMATION CONTACT: Tina Bateman, Grants Specialist, Office of Grants Management. Phone: (202) 734–0639, email: grants@eac.gov. All requests and submissions should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: EAC Budget Expenditures Worksheet (EAC–BEW); OMB Number: 3265–0023.

Purpose

The EAC Office of Grants Management (EAC/OGM) is responsible for awarding, distributing, monitoring, and providing technical assistance to States and grantees on the use of Federal funds. EAC/OGM also reports on how the funds are spent, negotiates indirect cost rates with grantees, and resolves audit findings on the use of HAVA funds.

The EAC–BEW is to be employed for all formula grants issued under HAVA authority. The EAC–BEW will directly benefit award recipients by making it easier for them to monitor budgets and expenses on their Federal grant and cooperative agreement programs through standardization of the types of information found in the worksheet—thereby reducing their administrative effort and costs.

The requirement for grantees to report on performance is OMB grants policy. Specific citations are contained in Code of Federal Regulations title 2, part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Public Comments

After obtaining and considering public comment, the EAC will prepare the format for final clearance.

The EAC is soliciting public comments on:

- Ways to enhance the quality, utility, and clarity of the information collected from respondents, including through the

use of automated collection techniques or other forms of information technology; and

- Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public

record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Respondents: All EAC formula grantees and State governments.

Annual Reporting Burden**ANNUAL BURDEN ESTIMATES**

EAC grant	Instrument	Total number of respondents	Total number of responses per year	Average burden hours per response	Annual burden hours
TBD	EAC-BEW	56	1	.5	28
Total .....	.....	.....	.....	.....	28

The estimated cost of the annualized cost of this burden is: \$718.76, which is calculated by taking the annualized burden (28 hours) and multiplying by an hourly rate of \$25.67 (GS-8/Step 5 hourly basic rate).

Camden Kelliher,

General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2025-08791 Filed 5-15-25; 8:45 am]

BILLING CODE 4810-71-P

DEPARTMENT OF ENERGY**Southwestern Power Administration****Robert D. Willis Power Rate**

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of proposed rate.

SUMMARY: Southwestern Power Administration (Southwestern) proposes to revise the existing Robert Douglas Willis Hydropower Project (Robert D. Willis) Rate Schedule to increase annual revenues by 28.6% from \$1,282,836 to \$1,650,648 effective August 1, 2025, through September 30, 2027. Interested persons may review the proposed rate and supporting studies on Southwestern's website and submit comments. Southwestern will evaluate all comments received in this process.

DATES: A consultation and comment period will begin May 16, 2025 and end June 16, 2025. Written comments are due on or before June 16, 2025.

ADDRESSES: Written comments should be submitted to: Fritha Ohlson, Senior Vice President, Chief Operating Officer, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, 6655 S Lewis Ave., Tulsa, Oklahoma 74136 or

emailed to swparates@swpa.gov.

Commenters should identify themselves and the entity which they represent and clearly state which proposed rate they are providing comments on.

FOR FURTHER INFORMATION CONTACT:

Ashley Corker, Director, Division of Resources and Rates, Southwestern Power Administration, U.S. Department of Energy, 6655 S Lewis Ave., Tulsa, Oklahoma 74136, (918) 595-6682, ashley.corker@swpa.gov.

SUPPLEMENTARY INFORMATION: On December 17, 2015, in Rate Order No. SWPA-70, the Deputy Secretary of Energy placed into effect the current Robert D. Willis rate schedule (RDW-15) on an interim basis for the period January 1, 2016, to September 30, 2019. FERC confirmed and approved RDW-15 on a final basis on June 15, 2016, for a period ending September 30, 2019. On September 22, 2019, in Rate Order No. SWPA-76, the Assistant Secretary for Electricity extended RDW-15 for two years, for the period of October 1, 2019, through September 30, 2021. On August 30, 2021, in Rate Order No. SWPA-79, the Administrator, Southwestern, extended RDW-15 for two years, for the period of October 1, 2021, through September 30, 2023. On September 25, 2023, the Administrator, Southwestern, extended RDW-15 on a temporary basis through September 30, 2024. On September 13, 2024, the Administrator, Southwestern, extended RDW-15 on a temporary basis through September 30, 2025, unless superseded.

Guidelines for preparation of power repayment studies are included in DOE Order No. RA 6120.2 entitled Power Marketing Administration Financial Reporting. Following these guidelines, Southwestern prepared a 2023 Current Power Repayment Study using the existing Robert D. Willis Rate Schedule.

This study indicates that Southwestern's legal requirement to repay the investment in the power generating facility for power and energy marketed by Southwestern will not be met without an increase in revenues. The need for increased revenues is primarily due to increased operations and maintenance costs and increased costs associated with existing investments and replacements in the Corps hydroelectric generating facility.

Southwestern prepared a 2023 Revised Power Repayment Study to address the revenue shortfall and inform development of the proposed rate schedule. The 2023 Revised Power Repayment Study indicates that the proposed Rate Schedule will increase annual revenues approximately 28.6% from \$1,282,836 to \$1,650,648 and be effective from August 1, 2025, through September 30, 2027.

Southwestern will continue to perform its Power Repayment Studies annually, and if the results of any future Power Repayment Studies indicate the need for a change in revenues, Southwestern will proceed with appropriate action at that time.

Public Participation

Procedures for public participation in power and transmission rate adjustments of the Power Marketing Administrations are found at title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR part 903). The proposed action is a minor rate adjustment, as defined by 10 CFR 903.2(e). In accordance with 10 CFR 903.14, the public consultation and comment period is 30 days. Southwestern will review and consider all timely public comments at the conclusion of the consultation and comment period and adjust the proposal as appropriate. The Robert D. Willis

Rate Schedule will then be approved on an interim basis.

Legal Authority

By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Southwestern’s Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. By Delegation Order No. S1–DEL–S3–2024, effective August 30, 2024, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–SWPA1–2023, effective April 10, 2023, the Under Secretary for Infrastructure redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Administrator, Southwestern.

Availability of Information

The 2023 Robert D. Willis Power Repayment Studies and the proposed Robert D. Willis Rate Schedule are available on Southwestern’s website at: <https://www.energy.gov/swpa/rate-schedule-actions>. At the conclusion of the consultation and comment period, Southwestern will post all comments received at the same website location.

Environmental Impact

Southwestern is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.¹

Determination Under Executive Order 12866

Southwestern has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Signing Authority

This document of the Department of Energy was signed on May 12, 2025, by Marshall Boyken, Acting Administrator for Southwestern Power Administration, pursuant to delegated authority from the

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

Signed in Washington, DC, on May 13, 2025.

Treena V. Garrett,

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

[FR Doc. 2025–08740 Filed 5–15–25; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–12774–01–R1]

2025 Annual Joint Meeting of the Ozone Transport Commission and the Mid-Atlantic Northeast Visibility Union

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; public meeting.

SUMMARY: The United States Environmental Protection Agency (EPA) is announcing the 2025 Annual Joint Meeting of the Ozone Transport Commission (OTC) and the Mid-Atlantic Northeast Visibility Union (MANEVU). The meeting agenda will include topics covering OTC and MANEVU activities to reduce regional ground-level ozone precursors and visibility-impairing fine particles.

DATES: The public meeting will be held on June 11, 2025, starting at 9 a.m. and ending at 3 p.m.

Location: West Room, 2nd Floor, The NonProfit Center, 89 South Street, Boston, MA 02111. Further information on the details is available at <http://otcair.org>.

FOR FURTHER INFORMATION CONTACT:

For documents and press inquiries contact: Ozone Transport Commission, 89 South St., Suite 602, Boston, MA 02111; (617) 259–2005; email: ozone@otcair.org; website: <http://otcair.org>.

For registration: To register for the meeting, please use the online registration form available at <http://otcair.org>, or contact the OTC at (617) 259–2005 or by email at ozone@otcair.org.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain

Section 184 provisions for the Control of Interstate Ozone Air Pollution. Section 184(a) establishes an Ozone Transport Region (OTR) comprised of the States of Connecticut, Delaware, Maine,¹ Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia, and the District of Columbia. The purpose of the OTC is to address ground-level ozone formation, transport, and control within the OTR.

MANEVU was formed in 2001, in response to EPA’s issuance of the Regional Haze Rule. MANEVU’s members include Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, the Penobscot Indian Nation, and the St. Regis Mohawk Tribe, along with EPA and Federal Land Managers.

Type of Meeting: Open.

Agenda: Copies of the final agenda are available from the OTC office at (617) 259–2005, by email: ozone@otcair.org, or via the OTC website at <http://www.otcair.org>.

Dated: May 6, 2025.

Mark Sanborn,

Regional Administrator, EPA Region 1.

[FR Doc. 2025–08726 Filed 5–15–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA 01–2020–0063 and 01–2024–0056; EPA–R01–SFUND–2025–0117; FRL–12709–01–R1]

First Modification to Bona Fide Prospective Purchaser Proposed Settlement Agreement and Covenant Not To Sue and Prospective Purchaser Proposed Settlement Agreement and Covenant Not To Sue Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended; In Re: Mohawk Tannery Site, Located in Nashua, New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (“EPA”) hereby provides notice of two proposed

¹ The geographic scope of Maine within the OTR was subsequently reduced to the portion of Maine encompassing 111 towns and cities comprising the Androscoggin Valley, Down East, and Metropolitan Portland Air Quality Control Regions, commonly referred to as the “Portland and Midcoast Ozone Areas.” 87 FR 7734 (February 10, 2022).

¹ In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321–4347; the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

settlement agreements: the First Modification to Bona Fide Prospective Purchaser Settlement Agreement for Removal Action ("Blaylock Modified BFPPA") between EPA and Blaylock LLC ("Blaylock"); and the Prospective Purchaser Settlement Agreement for CERCLA Response Actions ("Greenfield PPA") between EPA and prospective purchaser Greenfield Environmental Mohawk Tannery Trust LLC, in its representative capacity as Trustee of the Mohawk Tannery Site Environmental Response Trust ("Greenfield"). The two settlement agreements concern the Mohawk Tannery Site in Nashua, New Hampshire. The Blaylock Modified PPA and the Greenfield PPA are entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA," also known as the Superfund law), and the authority of the Attorney General of the United States to compromise and settle claims of the United States. The proposed Blaylock Modified BFPPA is between the U.S. Environmental Protection Agency ("EPA") and bona fide prospective purchaser Blaylock Holdings, LLC. The proposed Blaylock Modified BFPPA requires that Blaylock conduct work under EPA oversight in exchange for a covenant not to sue pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a) for existing contamination at the Mohawk Tannery Site. The Blaylock Modified BFPPA provides pre-authorized mixed funding for the work. Under the Greenfield PPA, Greenfield has an agreement to assume long-term ownership duties and to perform post-removal site controls in connection with approximately 4 acres of property (the "Containment Parcel") located in Nashua, New Hampshire, which is a part of the Mohawk Tannery Site as set forth in the Blaylock Modified BFPPA, EPA Region 1 CERCLA Docket No. 01–2024–0056 pertaining to the Site and the Containment Parcel, which is a portion of the Site. Blaylock and Greenfield consent to and will not contest the authority of the United States to enter into the Blaylock Modified BFPPA and the Greenfield PPA, or to implement or enforce their respective terms. Blaylock and Greenfield recognize that these settlement agreements have been negotiated in good faith and that the Blaylock Modified BFPPA and the Greenfield PPA are entered into without the admission or adjudication of any issue of fact or law.

DATES: Comments must be submitted by June 16, 2025.

ADDRESSES: The proposed settlement agreements and related Site documents are available at EPA's website <https://www.epa.gov/superfund/mohawk>. The proposed settlement agreements and related Site documents are available for public inspection at the U.S. EPA, Region 1, SEMS Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109 by appointment only (by calling 617–918–1440 or by emailing r1.records-sems@epa.gov). The proposed settlement agreement are also available for public inspection at <https://www.regulations.gov> by searching for Docket ID No. EPA–R01–SFUND–2025–0117.

FOR FURTHER INFORMATION CONTACT: RuthAnn Sherman, Senior Enforcement Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109, (617) 918–1886, email: sherman.ruthann@epa.gov.

SUPPLEMENTARY INFORMATION: Submit any comments online via <https://www.regulations.gov> (Docket ID No. EPA–R01–SFUND–2025–0117). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. Do not submit electronically any information you consider to be Confidential Business Information ("CBI") or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, see: <https://www.epa.gov/dockets/commenting-epa-dockets>. Any personally identifiable information (*e.g.*, name, address, phone number) included in the comment form or in an attachment may be publicly disclosed in a docket or on the internet (via *Regulations.gov*, a federal agency website, or a third-party, non-government website with access to publicly-disclosed data on *Regulations.gov*). By submitting a comment, you agree to the *terms of participation*, available at <https://www.regulations.gov/user-notice> and *privacy notice* available at <https://www.regulations.gov/privacy-notice>.

For 30 days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement agreements. EPA will consider all comments received and may modify or withdraw its consent to the proposed settlement agreements if comments received disclose facts or considerations which indicate that the settlements are inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the U.S. EPA, Region 1, SEMS Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109 by appointment only (by calling 617–918–1440 or by emailing r1.records-sems@epa.gov). EPA's response to any comments will also be made available at EPA's website <https://www.epa.gov/superfund/mohawk>.

Bryan Olson,

Director, Superfund and Emergency Management Division, United States Environmental Protection Agency.

[FR Doc. 2025–08725 Filed 5–15–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–178]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or <https://www.epa.gov/nepa>. Weekly receipt of Environmental Impact Statements (EIS)
Filed May 5, 2025 10 a.m. EST Through May 12, 2025 10 a.m. EST
Pursuant to CEQ Guidance on 42 U.S.C. 4332.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

EIS No. 20250054, Final, USA, HI, Army
Training Land Retention of State Lands at Kahuku Training Area, Kawaihoa-Poamoho Training Area, and Makua Military Reservation Island of Oahu, Review Period Ends: 06/16/2025, Contact: Phi Dang 520–687–2395.

EIS No. 20250055, Draft, USAF, NV,
Master Plan and Installation Development at Nellis Air Force Base, Nevada, Comment Period Ends: 06/30/2025, Contact: Daniel Fisher 210–925–2738.

EIS No. 20250056, Final, EPA, CA,
ADOPTION—Vista Grande Drainage
Basin Improvement Project, Golden
Gate National Recreation Area, San
Francisco and San Mateo Counties,
Review Period Ends: 06/16/2025,
Contact: Alaina McCurdy 202–564–
6996.

The Environmental Protection Agency
(EPA) has adopted the National Park
Service's Final EIS No. 20170175 filed
09/07/2017 with the Environmental
Protection Agency. The EPA was not a
cooperating agency on this project.
Therefore, republication of the
document is necessary.

EIS No. 20250057, Final Supplement,
NRC, SC, NUREG–1437, Supplement
15, Second Renewal, Generic
Environmental Impact Statement for
License Renewal of Nuclear Plants:
Regarding Subsequent License
Renewal of Virgil C. Summer Nuclear
Station, Unit 1, Review Period Ends:
06/16/2025, Contact: Kim Conway
301–415–1335.

EIS No. 20250058, Final Supplement,
FERC, LA, FSEIS for Venture Global
CP2 LNG, LLC's et al. CP2 LNG and
CP Express Pipeline Projects, Review
Period Ends: 06/16/2025, Contact:
Office of External Affairs 866–208–
3372.

Dated: May 12, 2025.

Nancy Abrams,

*Associate Director, Office of Federal
Activities.*

[FR Doc. 2025–08758 Filed 5–15–25; 8:45 am]

BILLING CODE 6560–50–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](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, Ann E.
Misback, Secretary of the Board, 20th
Street and Constitution Avenue NW,
Washington, DC 20551–0001, not later
than June 2, 2025.

A. Federal Reserve Bank of Chicago
(Colette A. Fried, Assistant Vice
President) 230 South LaSalle Street,
Chicago, Illinois 60690–1414.
Comments can also be sent
electronically to

Comments.applications@chi.frb.org:

1. *The Estate of William H. Davis,*
Donna J. Davis as Executor, both of
Fairview Park, Ohio; to retain voting
shares of Anchor Bancorporation, Inc.,
and thereby indirectly retain voting
shares of Anchor State Bank, both of
Anchor, Illinois. Additionally, Donna J.
Davis, Fairview Park, Ohio, to acquire
voting shares of Anchor Bancorporation,
Inc. and thereby indirectly acquire
voting shares of Anchor State Bank,
both of Anchor, Illinois.

Board of Governors of the Federal Reserve
System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025–08803 Filed 5–15–25; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade
Commission (“FTC” or “Commission”) is
seeking public comments on its
proposal to extend for an additional
three years the current Paperwork
Reduction Act (“PRA”) clearance for
information collection requirements
contained in the FTC regulations
governing the duties of furnishers of

information to consumer reporting
agencies (“Information Furnishers Rule”
or “Rule”), which applies to certain
motor vehicle dealers, and its shared
enforcement with the Bureau of
Consumer Financial Protection
(“CFPB”) of the furnisher provisions
(subpart E) of the CFPB's Regulation V
regarding other entities. The current
clearance expires on September 30,
2025.

DATES: Comments must be filed by July
15, 2025.

ADDRESSES: Interested parties may file a
comment online or on paper, by
following the instructions in the
Request for Comment part of the
SUPPLEMENTARY INFORMATION section
below. Write “Information Furnishers
Rule, PRA Comment, P135407” on your
comment, and file your comment online
at <https://www.regulations.gov> by
following the instructions on the web-
based form. If you prefer to file your
comment on paper, mail your comment
to the following address: Federal Trade
Commission, Office of the Secretary,
600 Pennsylvania Avenue NW, Suite
CC–5610 (Annex J), Washington, DC
20580.

FOR FURTHER INFORMATION CONTACT:
Gorana Neskovic, Attorney, Division of
Privacy and Identity Protection, Bureau
of Consumer Protection, (202) 326–
2322, 600 Pennsylvania Ave. NW, CC–
8232, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Title of Collection: Duties of
Furnishers of Information to Consumer
Reporting Agencies.

OMB Control Number: 3084–0144.

Type of Review: Extension without
change of a currently approved
collection.

Affected Public: Private Sector:
Businesses and other for-profit entities.

Estimated Annual Burden Hours:
15,423 hours.

Estimated Annual Labor Costs:
\$942,021.

Estimated Annual Non-Labor Costs:
\$0.

Abstract: The Dodd-Frank Act¹
transferred most of the FTC's
rulemaking authority for the furnisher
provisions of the Fair Credit Reporting
Act (“FCRA”) to the CFPB. The FTC,
however, retains rulemaking authority
for motor vehicle dealers that are
predominantly engaged in the sale and
servicing of motor vehicles, the leasing
and servicing of motor vehicles, or
both.³ In addition, the FTC retains its
authority to enforce the furnisher

¹ Public Law 111–203, 124 Stat. 1376 (2010).

² 15 U.S.C. 1681 *et seq.*

³ See Dodd-Frank Act, sec. 1029(a), (c).

provisions of the FCRA and rules issued under those provisions. Accordingly, the FTC and CFPB have overlapping enforcement authority for many entities subject to CFPB's Regulation V (subpart E), and the FTC has sole enforcement authority for the motor vehicle dealers subject to the FTC's Information Furnishers Rule.

Under § 660.3 of the FTC's Information Furnishers Rule⁴ and § 1022.42 of the CFPB Rule,⁵ furnishers must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that they furnish to a consumer reporting agency ("CRA") for inclusion in a consumer report.⁶ Section 660.4 of the FTC Rule and § 1022.43 of the CFPB Rule require that entities which furnish information about consumers to a CRA respond to direct disputes from consumers. These provisions also require that a furnisher notify consumers by mail or other means (if authorized by the consumer) within five business days after making a determination that a dispute is frivolous or irrelevant ("F/I dispute").

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements.

Burden Statement

A. Number of Respondents: 6,394

FTC staff estimates that approximately 6,394 information furnishers are subject to the FTC's Information Furnishers Rule and its enforcement authority.⁷

⁴ 16 CFR 660.3.

⁵ 12 CFR 1022.42.

⁶ The rules also provide that an entity is not a furnisher when it: (1) provides information to a CRA solely to obtain a consumer report for a permissible purpose under the FCRA; (2) is acting as a CRA as defined in section 603(f) of the FCRA; (3) is an individual consumer to whom the furnished information pertains; or (4) is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a CRA.

⁷ The CFPB estimates that there are 16,000 furnishers, excluding motor vehicle dealers that are subject to the FTC's jurisdiction, with an allocation to that agency of 63 percent of the burden or 10,080 respondents. See CFPB, *Supporting Statement Part A, Fair Credit Reporting Act (Regulation V)* 12 CFR 1022 (OMB Control Number: 3170-0002) (https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202008-3170-001). Allocating the remaining 37 percent of the burden to the FTC yields 5,920 respondents, excluding motor vehicle dealers that are subject to the FTC's jurisdiction. FTC staff estimates that there are approximately

B. Section 660.3 of FTC Rule and § 1022.42 of CFPB Rule

I. Annual Hours Burden: 12,788 hours.

Section 660.3 of the FTC's Furnisher Rule and § 1022.42 of Regulation V (subpart E) require furnishers to establish written policies and procedures regarding the accuracy and integrity of information relating to consumers that they furnish to a CRA. Furnishers must also review these policies and procedures periodically and update them as necessary to ensure their continued effectiveness. FTC staff estimate a yearly recurring burden of 2 hours for training to help ensure continued compliance regarding written policies and procedures for the accuracy and integrity of the information furnished to a CRA about consumers.⁸ This yields an annual hours burden of 12,788 hours (6,394 respondents × 2 hours for training).

II. Annual Labor Costs: \$864,341.

Labor costs are derived by applying appropriate estimated hourly cost figures to the burden hours described above. The FTC assumes that respondents will use managerial and/or professional technical personnel to train company employees on continued compliance with the information furnisher requirements under the FTC and CFPB Rules. This yields estimated annual labor costs of \$864,341 (12,788 hours × \$67.59⁹).

47,442 motor vehicle dealers in the U.S. See U.S. Census Bureau, *All Sectors: County Business Patterns, including ZIP Code Business Patterns, by Legal Form of Organization and Employment Size Class for the U.S., States, and Selected Geographies: 2022*, available at <https://data.census.gov/table/CBP2022.CB2200CBP?n=44111:44112> (listing 21,835 establishments for "new car dealers," NAICS Code 44111, and 25,607 establishments for "used car dealers," NAICS Code 44112). It is difficult to determine precisely the number of motor vehicle dealers that are subject to the FTC's jurisdiction and that are furnishers. Given the restrictions in section 1029(a) of the Dodd-Frank Act that motor vehicle dealers subject to the FTC's jurisdiction are those that routinely assign consumer contracts governing retail credit to an unaffiliated third-party finance source, FTC staff believes the number is *de minimis*. Accordingly, FTC staff estimates that 1 percent of motor vehicle dealers subject to the FTC's jurisdiction are furnishers of information to CRAs, or 474 respondents. Thus, for purposes of these burden calculations, FTC staff assumes that there are 6,394 respondents (474 motor vehicle dealers + 5,920 other entities).

⁸ See 74 FR 31484, 31505 (July 1, 2009).

⁹ See Bureau of Labor Statistics, U.S. Department of Labor, *Table 1: National Employment and Wage Data from the Occupational Employment Statistics Survey by Occupation*, May 2024, available at <https://www.bls.gov/news.release/ocwage.t01.htm> [hereinafter *BLS Table 1*], for mean hourly wage rate for "Training and Development Managers."

C. Section 660.4 of FTC Rule and § 1022.43 of CFPB Rule

Section 660.4 of the FTC's Information Furnishers Rule and § 1022.43 of the CFPB's Regulation V (subpart E) require furnishers to respond to direct disputes from consumers and notify consumers by mail or other means (if authorized by the consumer) within five business days after making a determination that a dispute is frivolous or irrelevant.

I. Annual Hours Burden: 2,635 hours.

FTC staff estimate that the burden necessary to prepare and distribute F/I notices is approximately 14 minutes per notice.¹⁰ Based on the calculations below, this yields an annual hours burden of 2,635 hours.

1. 21,720 total F/I disputes¹¹
2. Motor vehicle dealer-only furnisher disputes are assumed to be 4 percent of the total: $21,720 \times .04 = 869$ F/I disputes¹²
3. $20,851$ respondents ($21,720 - 869$ FTC only) ÷ by 2 = $10,425$ F/I disputes subject to FTC shared jurisdiction
4. 869 FTC only F/I disputes + $10,425$ additional F/I disputes = $11,294$ F/I dispute notices for the FTC's jurisdiction
5. $11,294$ F/I disputes × 14 minutes each = 2,635 hours

II. Annual Labor Costs: \$77,680.

Labor costs are derived by applying appropriate estimated hourly cost figures to the burden hours described above. FTC staff assumes that respondents will use skilled administrative support personnel to provide the required F/I dispute notices to consumers. This yields estimated annual labor costs of \$77,680 (2,635 hours × \$29.48¹³).

¹⁰ 74 FR 31484, 31505 (July 1, 2009).

¹¹ *Id.* at 31506 n. 58.

¹² FTC staff believes that 4 percent is a reasonable estimate based on recent data. See "Key Dimensions and Processes in the U.S. Credit Reporting System: A review of how the nation's largest credit bureaus handle consumer data," December 2012, pp. 14, 29, 31, 34. The CFPB report noted that almost 40 percent of all consumer disputes at the nationwide CRAs, on average, can be linked to collections. It stated that collection trade lines generate significantly higher numbers of consumer disputes than other types of trade lines—specifically, four times higher than auto-related dispute rates. These figures seem to suggest that almost 10 percent of all consumer disputes at the nationwide CRAs, on average, can be linked to auto-related disputes. When the FTC issued its final Rule, FTC staff estimated that 40 percent of direct disputes would result in the sending of F/I dispute notices. See 74 FR 31506 n.58. The FTC's estimate of 4 percent is based on taking 40 percent of the 10 percent of all consumer disputes at the nationwide CRAs, on average, linked to auto loans.

¹³ The revised figure is an average of Bureau of Labor Statistics mean hourly wages for potentially analogous employee types; specifically, first-line

Continued

D. Annual Non-Labor Costs: \$0

FTC staff believes that these information collection requirements impose negligible capital or other non-labor costs, as the affected entities are already likely to have the necessary supplies and equipment (e.g., offices and computers) to administer the information collections described above.

Request for Comment

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

For the FTC to consider a comment, we must receive it on or before July 15, 2025. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you file your comment on paper, write “Information Furnishers Rule, PRA Comment, P135407” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely

responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled “Confidential,” and (3) comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 15, 2025. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2025–08801 Filed 5–15–25; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services**

[CMS–0042–NC]

RIN 0938–AV68

Request for Information; Health Technology Ecosystem

AGENCY: Centers for Medicare & Medicaid Services (CMS), Assistant Secretary for Technology Policy (ASTP)/Office of the National Coordinator for Health Information Technology (ONC) (collectively, ASTP/ONC), Department of Health and Human Services (HHS).

ACTION: Request for information.

SUMMARY: Effective and responsible adoption of technology can empower patients to make better decisions for their health and well-being. This request for information (RFI) seeks input from the public regarding the market of digital health products for Medicare beneficiaries as well as the state of data interoperability and broader health technology infrastructure. Responses to this RFI may be used to inform CMS and ASTP/ONC efforts to lead infrastructure progress to cultivate this market, increasing beneficiary access to effective digital capabilities needed to make informed health decisions, and increasing data availability for all stakeholders contributing to health outcomes.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by June 16, 2025.

ADDRESSES: In commenting, refer to file code CMS–0042–NC.

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 <https://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–0042–NC, 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

supervisors of office and administrative support workers (\$34.40); bookkeeping, accounting, and auditing clerks (\$25.01); brokerage clerks (\$32.54); and eligibility interviewers, government programs (\$25.95). See BLS Table 1. This averages to \$29.48 per hour, rounded.

Services, Attention: CMS–0042–NC, 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:
HealthTechRFI@cms.hhs.gov.

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: <https://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 commenter will take actions to harm an 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

The enactment of the 21st Century Cures Act (Pub. L. 114–255) in 2016 authorized the Centers for Medicare & Medicaid Services (CMS), the Assistant Secretary for Technology Policy/Office of the National Coordinator for Health Information Technology (ASTP/ONC),¹ and the National Institute of Standards and Technology (NIST), to implement certain policies to enhance the amount of health data available through digital channels and give patients secure, electronic access to their personal health information. These policies are the building blocks of a digital ecosystem in which patients can view, manage, utilize, and share their health information through digital applications (apps) and other modern solutions. This digital ecosystem could ultimately expand access to personalized health guidance for patients to improve prevention and chronic disease management.

On January 12, 2017, President Trump issued Executive Order 13813, “Promoting Healthcare Choice and

Competition Across the United States” (82 FR 48385), which directed Federal agencies to implement policies that enhance patient access to healthcare data and empower individuals to make informed decisions about their care.

In 2018, CMS led payers by example and released Blue Button 2.0, its own Fast Healthcare Interoperability Resources (FHIR®)-based Patient Access application programming interface (API) with the goal of increasing beneficiary access to their data and improving patient outcomes. This project initiated an ecosystem of patient-facing applications that allowed beneficiaries to authenticate using their Medicare.gov credentials and then to authorize applications to receive their Medicare claims and benefit information. At this time, 75 third-party apps are connected to the Blue Button 2.0 API, giving beneficiaries a variety of services for viewing their health data, sharing their data with digital services, providers, pharmacies, and caregivers, and making decisions related to their healthcare. Currently, Blue Button 2.0 includes Medicare Part A, B, and D claims information, patient demographics, and coverage information. Additionally, in 2019, CMS launched the Data at the Point of Care API pilot to give providers access to claims data for Medicare Fee-For-Service (FFS) beneficiaries they treat.

On May 1, 2020, CMS published the “Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Interoperability and Patient Access for MA Organization and Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans on the Federally-Facilitated Exchanges, and Healthcare Providers” final rule (CMS–9115–F) (85 FR 25510). The rule established standards and requirements for payers regulated by CMS to advance interoperability and data exchange throughout the health system and to signal our commitment to the vision set out in the 21st Century Cures Act and Executive Order 13813 to improve quality and accessibility of information that Americans need to make informed healthcare decisions, including data about healthcare prices and outcomes, while minimizing reporting burdens on affected healthcare providers and payers.

The CMS Interoperability and Patient Access final rule built on the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, which established the patient’s right of access to their protected health

information (PHI), including a right to inspect and/or receive a copy of PHI held in designated record sets by covered entities and their business associates as detailed at 45 CFR 164.524. Among other provisions, the 2020 CMS Interoperability and Patient Access final rule required impacted payers to implement and maintain (Health Level Seven (HL7®) FHIR-based APIs that would allow patients to use an app of their choosing to access PHI held by or on behalf of a HIPAA covered entity.

On May 1, 2020, ASTP/ONC published the “21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health Information Technology (IT) Certification Program” final rule (ONC Cures Act final rule) (85 FR 25642). This final rule strengthened patients’ electronic access (including via a third-party app) to their health information at no cost and added a certification criterion under the ONC Health IT Certification Program to support the availability of FHIR-based APIs in electronic health records and other certified health IT to enable patients and providers to view electronic health information using smartphone applications.

Subsequent ASTP/ONC regulations finalized provisions to advance interoperability, enhance health IT certification, and support the access, exchange, and use of electronic health information. Specifically, the ASTP/ONC “Health Data, Technology, and Interoperability: Certification Program Updates, Algorithm Transparency, and Information Sharing” final rule (HTI–1 final rule), which adopted version 3 of the United States Core Data for Interoperability (USCDI) standard² and expanded access to more data via FHIR APIs that meet standards adopted by ASTP/ONC (89 FR 1192); and the “Health Data, Technology, and Interoperability: Trusted Exchange Framework and Common Agreement” final rule (HTI–2 final rule), which implemented provisions related to the Trusted Exchange Framework and Common Agreement™ (TEFCA™) that support information sharing as well as network reliability, privacy, security, and trust (89 FR 101772).

In 2024, CMS published the “Interoperability and Prior Authorization” final rule, which required impacted payers to implement and maintain a Provider Access API, similar to CMS’ Data at the Point of Care

¹ On July 29, 2024, notice was posted in the **Federal Register** that ONC would be dually titled to the Assistant Secretary for Technology Policy and Office of the National Coordinator for Health Information Technology (89 FR 60903).

² <https://www.healthit.gov/isp/united-states-core-data-interoperability-uscdi>. The United States Core Data for Interoperability (USCDI) is a standardized set of health data classes and constituent data elements for nationwide, interoperable health information exchange.

API, to make current patients' claims and encounter data available to in-network or enrolled providers with whom the patient has a verified treatment relationship, at the provider's request (89 FR 8758). The final rule requires impacted payers to be in compliance by January 1, 2027.

The policy framework established by CMS and ASTP/ONC rulemakings are intended to promote the seamless and secure flow of health information between patients, providers, and payers, enabling digital workflows supported by smartphone applications and other modern tools.

II. Solicitation of Public Comments

As the breadth, depth, quality, and timeliness of health data available to patients through standards-based APIs increase, evolving digital health products will gain greater functionality and potential for enhancing the healthcare experience, reducing costs, increasing access to care, enabling chronic disease prevention, and improving healthcare outcomes. Although the building blocks for a patient-centric digital health ecosystem are in place, the experience of most patients, caregivers, and providers is neither seamless nor simple. To get access to their data, patients have to track which providers they have seen and set up separate accounts and credentials with each portal. Even for patients who are able to set this up, digital products for health management or care navigation that can leverage patient health records are still rare; appointment scheduling often still entails lengthy phone calls and provider intake still involves clipboards of multiple forms.

CMS and ASTP/ONC would like to continue to build on the existing policy framework to drive large-scale adoption of health management and care navigation applications, reduce barriers to data access and exchange, realize the potential of recent innovations in healthcare that promote better health outcomes, and accelerate progress towards a patient-centric learning health system.

CMS and ASTP/ONC seek feedback from stakeholders, including but not limited to: patients and caregivers, providers, payers, health IT companies, health information exchanges, health information networks, clearinghouses, researchers, and developers of digital health products regarding how we can help achieve the potential of digital health technology. CMS and ASTP/ONC also seek feedback on which elements of today's digital health ecosystem are working, which are working

inconsistently and need improvement, and which are impeding rapid progress. CMS and ASTP/ONC also seek input for possible consideration in future rulemaking on policies to ease health data exchange and promote innovation in consumer digital health products, and how HHS can encourage patient, caregiver, and provider engagement with digital health products.

Furthermore, the transition to value-based care (VBC) represents a cornerstone of CMS' strategy to incentivize improvements in health outcomes rather than increases in service volume. The role of technology is critical to this transformation. While significant progress has been made in health IT adoption, opportunities remain to better align technology requirements with the needs of providers participating in Alternative Payment Models (APMs) and other value-based care programs. Among other topics, CMS and ASTP/ONC seek feedback on current HHS requirements around the use of technology, including the use of health IT certified under the ONC Health IT Certification Program, by healthcare providers participating in VBC initiatives. Among other areas of inquiry, CMS and ASTP/ONC request input on requirements for the use of certified electronic health record (EHR) technology (CEHRT), and how such requirements can enable value-based care and meet statutory requirements while meeting other program objectives, such as reducing provider burden, to better support value-based care adoption among providers, and subsequently improve patient choice and competition in the healthcare marketplace.

The questions that follow are grouped by use cases corresponding to patients and caregivers, providers, payers, technology vendors and data providers, and VBC organizations. We encourage patient advocates and healthcare stakeholders to share their feedback for as many of these use cases as possible. The questions are not meant to be directed to a specific audience but are meant to solicit feedback from multiple types of stakeholders for each use case as appropriate. To aid understanding of submitted responses, please prioritize clarity and conciseness and annotate your responses with question label(s) (for example, PC-1).

Because we expect some responses to relate to software workflows that may be difficult to fully articulate in written responses, we welcome links to screenshots or brief video demonstrations as part of submitted feedback. Please keep videos to a maximum of 15 minutes total to

highlight real-world challenges, workflow examples, or functional capabilities and keep introduction of the presenters and company to no more than 2 minutes.

A. Definitions for Terms Used in This RFI

- *Digital tools*: web, mobile or other software applications, potentially leveraging sensors, wearables or other hardware.

- *Digital health products*: defined as digital tools that support individual health needs.

- *Health management applications*: Digital tools that leverage patients' data and other information to support patients with health decision-making.

- *Care navigation applications*: Digital tools that help patients identify, select, and access providers or auxiliary care services.

- *Personal health record apps*: Software applications that collect and organize an individual's health records and provider encounter data for viewing, sharing, and usage in digital health products.

B. Patients and Caregivers

This section is intended for all stakeholders to provide input on questions as they relate to use cases and workflows that involve patients and caregivers. While we certainly want patients and caregivers to answer questions in this section (and in other sections) from the patient/caregiver point of view, we also invite all stakeholders to provide their viewpoints on the patient/caregiver workflows.

1. Patient Needs

PC-1. What health management or care navigation apps would help you understand and manage your (or your loved ones) health needs, as well as the actions you should take?

a. What are the top things you would like to be able to do for your or your loved ones' health that can be enabled by digital health products?

b. If you had a personal assistant to support your health needs, what are the top things you would ask them to help with? In your response, please consider tasks that could be supported or facilitated by software solutions in the future.

PC-2. Do you have easy access to your own and all your loved ones' health information in one location (for example, in a single patient portal or another software system)?

a. If so, what are some examples of benefits it has provided?

b. If not, in what contexts or for what workflows would it be most valuable to

use one portal or system to access all such health information?

c. Were there particular data types, such as x-rays or specific test results, that were unavailable? What are the obstacles to accessing your own or your loved ones' complete health information electronically and using it for managing health conditions or finding the best care (for example, limitations in functionality, user friendliness, or access to basic technology infrastructure)?

PC-3. Are you aware of health management, care navigation, or personal health record apps that would be useful to Medicare beneficiaries and their caregivers?

PC-4. What features are missing from apps you use or that you are aware of today?

a. What apps should exist but do not yet? Why do you believe they do not exist yet?

b. What set of workflows do you believe CMS is uniquely positioned to offer?

PC-5. What can CMS and its partners do to encourage patient and caregiver interest in these digital health products?

a. What role, if any, should CMS have in reviewing or approving digital health products on the basis of their efficacy, quality or impact or both on health outcomes (not approving in the sense of a coverage determination)? What criteria should be used if there is a review process? What technology solutions, policy changes, or program design changes can increase patient and caregiver adoption of digital health products (for example, enhancements to data access, reimbursement adjustments, or new beneficiary communications)?

b. What changes would enable timely access to high quality CMS and provider generated data on patients?

PC-6. What features are most important to make digital health products accessible and easy to use for Medicare beneficiaries and caregivers, particularly those with limited prior experience using digital tools and services?

PC-7. If CMS were to collect real-world data on digital health products' impact on health outcomes and related costs once they are released into the market, what would be the best means of doing so?

2. Data Access and Integration

PC-8. In your experience, what health data is readily available and valuable to patients or their caregivers or both?

a. What data is valuable, but hard for patients and caregivers, or app developers and other technical vendors,

to access for appropriate and valuable use (for example, claims data, clinical data, encounter notes, operative reports, appointment schedules, prices)?

b. What are specific sources, other than claims and clinical data, that would be of highest value, and why?

c. What specific opportunities and challenges exist to improve accessibility, interoperability and integration of clinical data from different sources to enable more meaningful clinical research and generation of actionable evidence?

PC-9. Given that the Blue Button 2.0 API only includes basic patient demographic, Medicare coverage, and claims data (Part A, B, D), what additional CMS data sources do developers view as most valuable for inclusion in the API to enable more useful digital products for patients and caretakers?

a. What difficulties are there in accessing or utilizing these data sources today?

b. What suggestions do you have to improve the Blue Button 2.0 API experience?

c. Is there non-CMS data that should be included in the API?

PC-10. How is the Trusted Exchange Framework and Common Agreement™ (TEFCA™) currently helping to advance patient access to health information in the real world?

a. Please provide specific examples.

b. What changes would you suggest?

c. What use cases could have a significant impact if implemented through TEFCA?

d. What standards are you aware of that are currently working well to advance access and existing exchange purposes?

e. What standards are you aware of that are not currently in wide use, but could improve data access and integration?

f. Are there redundant standards, protocols, or channels that should be consolidated?

g. Are there adequate alternatives outside of TEFCA for achieving widespread patient access to their health information?

PC-11. How are health information exchanges (HIEs) currently helping to advance patient access to health information in the real world?

a. How valuable, available, and accurate do you find the data they share to be?

b. What changes would you suggest?

c. Are there particular examples of high-performing HIE models that you believe should be propagated across markets?

d. What is the ongoing role of HIEs amidst other entities facilitating data

exchange and broader frameworks for data exchange (for example, vendor health information networks, TEFCA, private exchange networks, etc.)?

PC-12. What are the most valuable operational health data use cases for patients and caregivers that, if addressed, would create more efficient care navigation or eliminate barriers to competition among providers or both?

a. Examples may include the following:

(1) Binding cost estimates for pre-defined periods.

(2) Viewing provider schedule availability.

(3) Using third-party apps for appointment management.

(4) Accessing patient-facing quality metrics.

(5) Finding the right provider for specific healthcare needs.

b. What use cases are possible today?

c. What should be possible in the near future?

d. What would be very valuable but may be very hard to achieve?

3. Information Blocking and Digital Identity

PC-13. How can CMS encourage patients and caregivers to submit information blocking complaints to ASTP/ONC's Information Blocking Portal? What would be the impact? Would increasing reporting of complaints advance or negatively impact data exchange?

PC-14. Regarding digital identity credentials (for example, CLEAR, Login.gov, ID.me, other NIST 800-63-3 IAL2/AAL2 credentialing service providers (CSP)):

a. What are the challenges today in getting patients/caregivers to sign up and use digital identity credentials?

b. What could be the benefits to patients/caregivers if digital identity credentials were more widely used?

c. What are the potential downsides?

d. How would encouraging the use of CSPs improve access to health information?

e. What role should CMS/payers, providers, and app developers have in driving adoption?

f. How can CMS encourage patients to get digital identity credentials?

C. Providers

This section is intended for all stakeholders to provide input on questions as they relate to use cases and workflows that involve providers. While we certainly want providers to answer questions in this section (and in other sections) from the provider point of view, we also invite all stakeholders to provide their viewpoints on the provider workflows as appropriate.

1. Digital Health Apps

PR-1. What can CMS and its partners do to encourage providers, including those in rural areas, to leverage approved (see description in PC-5) digital health products for their patients?

- a. What are the current obstacles?
- b. What information should providers share with patients when using digital products in the provision of their care?
- c. What responsibilities do providers have when recommending use of a digital product by a patient?

PR-2. What are obstacles that prevent development, deployment, or effective utilization of the most useful and innovative applications for physician workflows, such as quality measurement reporting, clinical documentation, and billing tasks? How could these obstacles be mitigated?

PR-3. How important is it for healthcare delivery and interoperability in urban and rural areas that all data in an EHR system be accessible for exchange, regardless of storage format (for example, scanned documents, faxed records, lab results, free text notes, structured data fields)? Please address all of the following:

- a. Current challenges in accessing different data formats.
- b. Impact on patient care quality.
- c. Technical barriers to full data accessibility.
- d. Cost or privacy implications of making all data formats interoperable.
- e. Priority level compared to other interoperability needs.

PR-4. What changes or improvements to standards or policies might be needed for patients' third-party digital products to have access to administrative workflows, such as auto-populating intake forms, viewing provider information and schedules, and making and modifying an appointment?

2. Data Exchange

PR-5. Which of the following FHIR APIs and capabilities do you already support or utilize in your provider organization's systems, directly or through an intermediary? For each, describe the transaction model, use case, whether you use individual queries or bulk transactions, and any constraints:

- a. Patient Access API.
- b. Standardized API for Patient and Population Services.
- c. Provider Directory API.
- d. Provider Access API.
- e. Payer-to-Payer API.
- f. Prior Authorization API.
- g. Bulk FHIR—Do you support Group ID-based access filtering for population-specific queries?

h. SMART on FHIR—Do you support both EHR-launched and standalone app access? What does the process for application deployment entail?

- i. CDS Hooks (for clinical decision support integrations).

PR-6. Is TEFCA currently helping to advance provider access to health information?

- a. Please provide specific examples.
- b. What changes would you suggest?
- c. What other options are available outside of TEFCA?
- d. Are there redundant standards, protocols or channels or both that could be consolidated?

PR-7. What strategies can CMS implement to support providers in making high-quality, timely, and comprehensive healthcare data available for interoperability in the digital product ecosystem? How can the burden of increasing data availability and sharing be mitigated for providers? Are there ways that workflows or metrics that providers are already motivated to optimize for that could be reused for, or combined with, efforts needed to support interoperability?

PR-8. What are ways CMS or partners can help with simplifying clinical quality data responsibilities of providers?

- a. What would be the benefits and downsides of using Bulk FHIR data exports from EHRs to CMS to simplify clinical quality data submissions? Can CMS reduce the burden on providers by performing quality metrics calculations leveraging Bulk FHIR data exports?

b. In what ways can the interoperability and quality reporting responsibilities of providers be consolidated so investments can be dually purposed?

- c. Are there requirements CMS should consider for data registries to support digital quality measurement in a more efficient manner? Are there requirements CMS should consider for data registries that would support access to real-time quality data for healthcare providers to inform clinical care in addition to simplifying reporting processes?

3. Digital Identity

PR-9. How might CMS encourage providers to accept digital identity credentials (for example, CLEAR, ID.me, Login.gov) from patients and their partners instead of proprietary logins that need to be tracked for each provider relationship?

- a. What would providers need help with to accelerate the transition to a single set of trusted digital identity credentials for the patient to keep track of, instead of one for each provider?

b. How might CMS balance patient privacy with convenience and access to digital health products and services that may lead to significant improvements in health?

PR-10. Regarding digital identity credentials (for example, CLEAR, Login.gov, ID.me, other NIST 800-63-3 IAL2/AAL2 CSPs):

- a. What are the challenges and benefits for providers?
- b. How would requiring their use improve access to health information?
- c. What are the potential downsides?
- d. What impact would mandatory credentials have on a nationwide provider directory?
- e. How could digital identity implementation improve provider data flow?
- f. Would combining FHIR addresses and identity improve data flow?

PR-11. How could members of trust communities³ (for example, QHINs, participants and subparticipants in TEFCA, which requires Identity Assurance Level 2 (IAL2) via Credential Service Providers (CSPs)) better support the goals of reduced provider and patient burden while also enhancing identity management and security?

4. Information Blocking

PR-12. Should ASTP/ONC consider removing or revising any of the information blocking exceptions or conditions within the exceptions (45 CFR part 171, subparts B through D) to further the access, exchange, and use of electronic health information (EHI) and to promote market competition?

PR-13. For any category of healthcare provider (as defined in 42 U.S.C. 300jj(3)), without a current information blocking disincentive established by CMS, what would be the most effective disincentive for that category of provider?

PR-14. How can CMS encourage providers to submit information blocking complaints to ASTP/ONC's Information Blocking Portal? What would be the impact? Would it advance or negatively impact data exchange?

D. Payers

PA-1. What policy or technical limitations do you see in TEFCA? What changes would you suggest to address those limitations? To what degree do you expect these limitations to hinder participation in TEFCA?

PA-2. How can CMS encourage payers to accelerate the implementation and utilization of APIs for patients,

³ A trust community is an ecosystem of health networks that operate under a common set of rules and technical requirements to securely exchange electronic health information.

providers, and other payers, similar to the Blue Button 2.0 and Data at the Point of Care APIs released by CMS?

PA-3. How can CMS encourage payers to accept digital identity credentials (for example, CLEAR, ID.me, Login.gov) from patients and their partners instead of proprietary logins?

PA-4. What would be the value to payers of a nationwide provider directory that included FHIR end points and used digital identity credentials?

PA-5. What are ways payers can help with simplifying clinical quality data responsibilities of providers?

a. How interested are payers and providers in EHR technology advances that enable bulk extraction of clinical quality data from EHRs to payers to allow them to do the calculations instead of the provider-side technology?

b. In what ways can the interoperability and quality reporting responsibilities of providers to both CMS and other payers be consolidated so investments can be dually purposed? Are there technologies payers might leverage that would support access to real time quality data for healthcare providers to inform clinical care in addition to simplifying reporting processes?

PA-7. How can CMS encourage payers to submit information blocking complaints to ASTP/ONC's Information Blocking Portal? What would be the impact? Would it advance or negatively impact data exchange?

E. Technology Vendors, Data Providers, and Networks

This section is intended for all stakeholders to provide input on questions as they relate to use cases and workflows that involve technology vendors, data providers, and networks. While we certainly want technology vendors, data providers, and networks to answer questions in this section (and in other sections) from their point of view, we also invite all stakeholders to provide their viewpoints on the technology vendor, data provider, and network use cases as appropriate.

1. Ecosystem

TD-1. What short term (in the next 2 years) and longer-term steps can CMS take to stimulate developer interest in building digital health products for Medicare beneficiaries and caregivers?

TD-2. Regarding CMS Data, to stimulate developer interest—

a. What additional data would be most valuable if made available through CMS APIs?

b. What data sources are most valuable alongside the data available through the Blue Button 2.0 API?

c. What obstacles prevent accessing these data sources today?

d. What other APIs should CMS and ASTP/ONC consider including in program policies to unleash innovation and support patients and providers?

2. Digital Identity

TD-3. Regarding digital identity implementation:

a. What are the challenges and benefits?

b. How would requiring digital identity credentials (for example, CLEAR, Login.gov, ID.me, other NIST 800-63-3 IAL2/AAL2 CSPs) impact cybersecurity and data exchange?

c. What impact would mandatory use of the OpenID Connect identity protocol have?

3. Technical Standards and Certification

TD-4. How can CMS better encourage use of open, standards-based, publicly available APIs over proprietary APIs?

TD-5. How could a nationwide provider directory of FHIR endpoints improve access to health information for patients, providers, and payers? Who should publish such a directory, and should users bear a cost?

TD-6. What unique interoperability functions does TEFCA perform?

a. What existing alternatives should be considered?

b. Are there redundant standards, protocols or channels or both that should be consolidated?

TD-7. To what degree has USCDI improved interoperability and exchange and what are its limitations?

a. Does it contain the full extent of data elements you need?

b. If not, is it because of limitations in the definition of the USCDI format or the way it is utilized?

c. If so, would adding more data elements to USCDI add value or create scoping challenges? How could such challenges be addressed?

d. Given improvements in language models, would you prefer a non-proprietary but less structured format that might improve data coverage even if it requires more processing by the receiver?

TD-8. What are the most effective certification criteria and standards under the ONC Health IT Certification Program?

TD-9. Regarding certification of health IT:

a. What are the benefits of redefining certification to prioritize API-enabled capabilities over software functionality?

b. What would be the drawbacks?

c. How could ASTP/ONC revise health IT certification criteria to require APIs to consistently support exchanging

data from all aspects of the patient's chart (for example, faxed records, free text, discrete data)?

d. What policy changes could CMS make so providers are motivated to respond to API-based data requests with best possible coverage and quality of data?

e. How could EHRs capable of bulk data transfer be used to reduce the burden on providers for reporting quality performance data to CMS? What capabilities are needed to show benefit? What concerns are there with this approach?

TD-10. For EHR and other developers subject to the ONC Health IT Certification Program, what further steps should ASTP/ONC consider to implement the 21st Century Cures Act's API condition of certification (42 U.S.C. 300jj-11(c)(5)(D)(iv)) that requires a developer's APIs to allow health information to be accessed, exchanged, and used without special effort, including providing access to all data elements of a patient's electronic health record to the extent permissible under applicable privacy laws?

TD-11. As of January 1, 2024, many health IT developers with products certified through the ONC Health IT Certification Program are required to include the capability to perform an electronic health information export or "EHI export" for a single patient as well as for patient populations (45 CFR 170.315(b)(10)). Such health IT developers are also required to publicly describe the format of the EHI export. Notably, how EHI export was accomplished was left entirely to the health IT developer. Now that this capability has been in production for over a year, CMS and ASTP/ONC seek input on the following:

a. Should this capability be revised to specify standardized API requirements for EHI export?

b. Are there specific workflow aspects that could be improved?

c. Should CMS consider policy changes to support this capability's use?

4. Data Exchange

TD-12. Should CMS endorse non-CMS data sources and networks, and if so, what criteria or metrics should CMS consider?

TD-13. What new opportunities and advancements could emerge with APIs providing access to the entirety of a patient's electronic health information (EHI)?

a. What are the primary obstacles to this?

b. What are the primary tradeoffs between USCDI and full EHI, especially

given more flexible data processing capabilities today?

TD-14. Regarding networks' use of FHIR APIs:

a. How many endpoints is your network connected to for patient data sharing? What types, categories, geographies of endpoints do you cover? Are they searchable by National Provider Identifier (NPI) or organizational ID?

b. How are these connections established (for example, FHIR (g)(10) endpoints, TEFCA/Integrating the Health Enterprise (IHE) XCA, or proprietary APIs)?

c. Do you interconnect with other networks? Under what frameworks (for example, TEFCA, private agreements)?

TD-15. Regarding bulk FHIR APIs:

a. How would increased use of bulk FHIR improve use cases and data flow?

b. What are the potential disadvantages of their use?

TD-16. What are the tradeoffs of maintaining point-to-point models vs. shared network infrastructure?

a. Do current rules encourage scalable network participation?

b. What changes would improve alignment (for example, API unification, reciprocal access)?

TD-17. Given operational costs, what role should CMS or ASTP/ONC or both have in ensuring viability of healthcare data sharing networks, including enough supply and demand, that results in usage and outcomes?

5. Compliance

TD-18. Information blocking:

a. Could you, as a technology vendor, provide examples for the types of practices you have experienced that may constitute information blocking. Please include both situations of non-responsiveness as well as situations that may cause a failure or unusable response?

b. What additional policies could ASTP/ONC and CMS implement to further discourage healthcare providers from engaging in information blocking practices?

c. Are there specific categories of healthcare actors covered under the definition of information blocking in section 3022(a)(1) of the Public Health Service Act (PHSA) that lack information blocking disincentives?

TD-19. Regarding price transparency implementation:

a. What are current shortcomings in content, format, delivery, and timeliness?

b. Which workflows would benefit most from functional price transparency?

c. What improvements would be most valuable for patients, providers, or payers, including CMS?

d. What would further motivate solution development?

F. Value-Based Care Organizations

This section is intended for all stakeholders to provide input on questions as they relate to use cases and workflows that involve value-based care organizations. While we certainly want value-based care organizations to answer questions in this section (and in other sections) from the value-based care provider point of view, we also invite all stakeholders to provide their viewpoints on the value-based care workflows as appropriate.

1. Digital Health Adoption

VB-1. What incentives could encourage APMs such as accountable care organizations (ACOs) or participants in Medicare Shared Savings Program (MSSP) to leverage digital health management and care navigation products more often and more effectively with their patients? What are the current obstacles preventing broader digital product adoption for patients in ACOs?

VB-2. How can key themes and technologies such as artificial intelligence, population health analytics, risk stratification, care coordination, usability, quality measurement, and patient engagement be better integrated into APM requirements?

VB-3. What are essential health IT capabilities for value-based care arrangements?

a. Examples (not comprehensive) may include: care planning, patient event notification, data extraction/normalization, quality performance measurement, access to claims data, attribution and patient ID matching, remote device interoperability, or other patient empowerment tools.

b. What other health IT capabilities have proven valuable to succeeding in value-based care arrangements?

VB-4. What are the essential data types needed for successful participation in value-based care arrangements?

2. Compliance and Certification

VB-5. In your experience, how do current certification criteria and standards incorporated into the ONC Health IT Certification Program support value-based care delivery?

VB-6. What specific health information technology capabilities that could benefit APMs are not currently addressed by existing certification

criteria and standards that should be included under the ONC Health IT Certification Program?

VB-7. How can technology requirements for APMs, established through CEHRT or other pathways, reduce complexity while preserving necessary flexibility?

VB-8. How can other HHS policies supplement CEHRT requirements to better optimize the use of digital health products in APMs? As an example, requirements under the Conditions of Participation for hospitals (42 CFR 482.24(d)) require hospitals to transmit electronic patient event notifications to community providers. What barriers are in place preventing APM participants from receiving the same notifications?

VB-9. What technology requirements should be different for APM organizations when comparing to non-APM organizations (for example, quality reporting, and interoperability)?

VB-10. In the Calendar Year (CY) 2024 Physician Fee Schedule final rule (88 FR 79413), CMS established that CEHRT requirements for Advanced APMs beyond those in the "Base EHR" definition should be flexible based on what is applicable to the APM that year based on the area of clinical practice. What certification criteria should CMS identify under this flexibility for specific Advanced APMs, or for Advanced APMs in general? Are there specific flexibilities or alternatives to consider for smaller or resource-constrained (such as rural) providers in meeting CEHRT requirements without compromising quality of care or availability of performance data?

3. Technical Standards

VB-11. What specific interoperability challenges have you encountered in implementing value-based care programs?

VB-12. What technology standardization would preserve program-specific flexibility while promoting innovation in APM technology implementation?

VB-13. What improvements to existing criteria and standards would better support value-based care capabilities while reducing provider burden?

VB-14. How could implementing digital identity credentials improve value-based care delivery and outcomes?

VB-15. How could a nationwide provider directory of FHIR endpoints help improve access to patient data and understanding of claims data sources? What key data elements would be necessary in a nationwide FHIR

endpoints directory to maximize its effectiveness?

III. Collection of Information Requirements

Please note, this is a request for information (RFI) only. In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA.

This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP), applications, proposal abstracts, or quotations. This RFI does not commit the U.S. Government to contract for any supplies or services or make a grant award. Further, CMS and ASTP/ONC are not seeking proposals through this RFI and will not accept unsolicited proposals. Responders are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. CMS and ASTP/ONC note that not responding to this RFI does not preclude participation in any future procurement, if conducted. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request. In addition, CMS and ASTP/ONC note that we will not respond to questions about potential policy issues raised in this RFI.

CMS and ASTP/ONC will actively consider input as we develop future regulatory proposals or future subregulatory policy guidance. We may or may not choose to contact individual responders. Such communications would be for the sole purpose of clarifying statements in the responders' written responses. Contractor support personnel may be used to review responses to this RFI. Responses to this notice are not offers and cannot be accepted by the Government to form a binding contract or issue a grant. Information obtained as a result of this

RFI may be used by the Government for program planning on a non-attribution basis. Respondents should not include any information that might be considered proprietary or confidential. This RFI should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become U.S. Government property and will not be returned. In addition, we may publicly post the public comments received or a summary of those public comments.

Stephanie Carlton, Deputy Administrator of the Centers for Medicare & Medicaid Services, approved this document on May 9, 2025.

Steven Posnack, Acting Assistant Secretary for Technology Policy, Acting National Coordinator for Health Information Technology, approved this document on May 6, 2025.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2025-08701 Filed 5-13-25; 11:15 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-4211-PN]

Medicare Program; Request for Renewal of Deeming Authority of the Utilization Review Accreditation Commission (URAC) for Medicare Advantage Health Maintenance Organizations and Preferred Provider Organizations

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice with request for comment.

SUMMARY: This proposed notice announces that the Centers for Medicare & Medicaid Services is considering granting approval of the Utilization Review Accreditation Commission's renewal application for Medicare Advantage "deeming authority" of Health Maintenance Organizations and Preferred Provider Organizations to continue participation in the Medicare or Medicaid program.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. June 16, 2025.

ADDRESSES: In commenting, refer to file code CMS-4211-PN.

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 <https://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-4211-PN, P.O. Box 8016, Baltimore, MD 21244-8016.

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-4211-PN, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

FOR FURTHER INFORMATION CONTACT: Dawn Johnson Scott, (410) 786-3159 or Katie Schenck, (410) 786-0628.

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

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services through a Medicare Advantage (MA) organization that contracts with the Center for Medicare & Medicaid Services (CMS). The regulations specifying the Medicare requirements that must be met for a Medicare Advantage organization (MAO) to enter into a contract with CMS are located at 42 CFR 422.503(b). These regulations implement Part C of Title XVIII of the Social Security Act (the Act), which specifies the services that an MAO must provide and the requirements that the organization must meet to be an MA contractor. Other relevant provisions of the Act include Parts A and B of Title XVIII and Parts A and E of Title XI of the Act pertaining to the provision of

services by Medicare-certified providers and suppliers. Generally, for an entity to be an MAO, the organization must be licensed by the state as a risk bearing organization, as set forth in 42 CFR 422.400.

As a method of assuring compliance with certain Medicare requirements, an MAO may choose to become accredited by a CMS-approved accreditation organization (AO). By virtue of its accreditation by a CMS-approved AO, the MAO may be “deemed” compliant in one or more requirements set forth in section 1852(e)(4)(B) of the Act. For CMS to recognize an AO’s accreditation program as establishing an MA plan’s compliance with our requirements, the AO must, as set forth in § 422.157(a)(1), prove to CMS that their standards are at least as stringent as Medicare requirements for MAOs. MAOs that are licensed as health maintenance organizations (HMOs) or preferred provider organizations (PPOs) and are accredited by an approved AO may receive, at their request, “deemed” status for CMS requirements for the deemable areas. These areas include Quality Improvement, Anti-Discrimination, Confidentiality and Accuracy of Enrollee Records, Information on Advance Directives, and Provider Participation Rules.

At this time, CMS does not recognize accreditation of the following areas: Access to Services set out in § 422.156(b)(3) or the Part D areas of review set out at § 423.165(b) as part of the MA deeming program. AOs that apply for MA deeming authority are generally recognized by the health care industry as entities that accredit HMOs and PPOs. As we specify at § 422.157(b)(2)(ii), the term for which an AO may be approved by CMS may not exceed 6 years. For continuing approval, the AO must apply to CMS to renew their deeming authority for a subsequent approval period.

The Utilization Review Accreditation Commission (URAC) was previously approved by CMS as an accreditation organization for MA deeming of HMOs and PPOs for a term from May 31, 2019 to June 2, 2025. On March 14, 2025, URAC submitted its initial application to renew its deeming authority, including materials requested by CMS that included information intended to address the requirements set out in regulations at § 422.158(a) and (b) that are prerequisites for receiving approval of its accreditation program from CMS. CMS subsequently requested that additional materials be submitted by URAC to satisfy these requirements.

II. Provisions of the Proposed Notice

This proposed notice notifies the public of URAC’s request to renew its MA deeming authority for HMOs and PPOs. URAC submitted all the necessary materials (including its standards and monitoring protocol) to enable us to make a determination concerning its request for approval as an accreditation organization for CMS. This renewal application was submitted on March 14, 2025, and CMS has determined the application is complete. Under section 1852(e)(4) of the Act and § 422.158 (Federal review of accreditation organizations), our review and evaluation of URAC will be conducted as discussed below.

A. Components of the Review Process

The review of URAC’s renewal application for approval of MA deeming authority includes, but is not limited to, the following components:

- The types of MA plans that it would review as part of its accreditation process.
- A detailed comparison of URAC’s accreditation requirements and standards with the Medicare requirements (for example, a crosswalk) in the following 5 deemable areas: Quality Improvement, Anti-Discrimination, Confidentiality and Accuracy of Enrollee Records, Information on Advance Directives, and Provider Participation Rules.
- Detailed information about the organization’s survey process, including—
 - ++ Frequency of surveys and whether surveys are announced or unannounced.
 - ++ Copies of survey forms, and guidelines and instructions to surveyors.
 - ++ Descriptions of—
 - The survey review process and the accreditation status decision making process.
 - The procedures used to notify accredited MAOs of deficiencies and to monitor the correction of those deficiencies; and
 - The procedures used to enforce compliance with accreditation requirements.

- Detailed information about the individuals who perform surveys for the AO, including—

- ++ The size and composition of accreditation survey teams for each type of plan reviewed as part of the accreditation process;
- ++ The education and experience requirements surveyors must meet;
- ++ The content and frequency of the in-service training provided to survey personnel;

- ++ The evaluation systems used to monitor the performance of individual surveyors and survey teams; and

- ++ The organization’s policies and practice for participation, in surveys or in the accreditation decision process, by an individual who is professionally or financially affiliated with the entity being surveyed.

- A description of the organization’s data management and analysis system for its surveys and accreditation decisions, including the kinds of reports, tables, and other displays generated by that system.

- A description of the organization’s procedures for responding to and investigating complaints against accredited organizations, including policies and procedures regarding coordination of these activities with appropriate licensing bodies and ombudsmen programs.

- A description of the organization’s policies and procedures for the withholding or removal of accreditation for failure to meet the AO’s standards or requirements, and other actions the organization takes in response to noncompliance with its standards and requirements.

- A description of all types (for example, full, partial) and categories (for example, provisional, conditional, temporary) of accreditation offered by the organization, the duration of each type and category of accreditation and a statement identifying the types and categories that would serve as a basis for accreditation if CMS approves the AO.

- A list of all currently accredited MAOs and the type, category, and expiration date of the accreditation held by each of them.

- A list of all full and partial accreditation surveys scheduled to be performed by the AO.

- The name and address of each person with an ownership or control interest in the AO.

- CMS will also consider URAC’s past performance in the deeming program and results of recent deeming validation reviews or equivalency reviews conducted as part of continuing Federal oversight of the deeming program under § 422.157(d).

B. Notice Upon Completion of Evaluation

Upon completion of our evaluation, including a review of comments received as a result of this proposed notice, we will publish a notice in the **Federal Register** announcing the result of our evaluation. Section 1852(e)(4)(C) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely

manner. The Act provides us with 210 calendar days after the date of receipt of a completed application to complete our survey activities and application review process. Within the 210-day period, we will publish an approval or denial of the application in the **Federal Register**.

III. Collection of Information Requirements

This document does not impose any new or revised “collection of information” requirements or burden. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). With respect to the PRA and this section of the preamble, collection of information is defined under 5 CFR 1320.3(c) of the PRA’s implementing regulations.

IV. Response to 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), Mehmet Oz, having reviewed and approved this document, authorizes Trenesha Fultz-Mimms, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Trenesha Fultz-Mimms,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2025–08722 Filed 5–14–25; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9154–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—January Through March 2025

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This quarterly notice lists Centers for Medicare & Medicaid Services (CMS) manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published in the 3-month period, relating to the Medicare and Medicaid programs and other programs administered by CMS.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning each of the addenda published in this notice.

Addenda	Contact	Phone No.
I. CMS Manual Instructions	Ronda Allen-Bonner	(410) 786–4657
II. Regulation Documents Published in the Federal Register	Terri Plumb	(410) 786–4481
III. CMS Rulings	Tiffany Lafferty	(410) 786–7548
IV. Medicare National Coverage Determinations	Wanda Belle, MPA	(410) 786–7491
V. FDA-Approved Category B IDEs	John Manlove	(410) 786–6877
VI. Collections of Information	William Parham	(410) 786–4669
VII. Medicare—Approved Carotid Stent Facilities	Sarah Fulton, MHS	(410) 786–2749
VIII. American College of Cardiology-National Cardiovascular Data Registry Sites	Sarah Fulton, MHS	(410) 786–2749
IX. Medicare’s Active Coverage-Related Guidance Documents	Lori Ashby, MA	(410) 786–6322
X. One-time Notices Regarding National Coverage Provisions	JoAnna Baldwin, MS	(410) 786–7205
XI. National Oncologic Positron Emission Tomography Registry Sites	David Dolan, MBA	(410) 786–3365
XII. Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities	David Dolan, MBA	(410) 786–3365
XIII. Medicare-Approved Lung Volume Reduction Surgery Facilities	Sarah Fulton, MHS	(410) 786–2749
XIV. Medicare-Approved Bariatric Surgery Facilities	Sarah Fulton, MHS	(410) 786–2749
XV. Fluorodeoxyglucose Positron Emission Tomography for Dementia Trials	David Dolan, MBA	(410) 786–3365
All Other Information	Renee Swann	(410) 786–4492

SUPPLEMENTARY INFORMATION:

I. Background

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs and coordination and oversight of private health insurance. Administration and oversight of these programs involves the following: (1) furnishing information to Medicare and Medicaid beneficiaries, health care providers, and the public; and (2) maintaining effective communications with CMS regional offices, state governments, state

Medicaid agencies, state survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, National Association of Insurance Commissioners (NAIC), health insurers, and other stakeholders. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act) and Public Health Service Act. We also issue various manuals, memoranda, and

statements necessary to administer and oversee the programs efficiently.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Format for the Quarterly Issuance Notices

This quarterly notice provides only the specific updates that have occurred in the 3-month period along with a hyperlink to the full listing that is

available on the CMS website or the appropriate data registries that are used as our resources. This is the most current up-to-date information and will be available earlier than we publish our quarterly notice. We believe the website list provides more timely access for beneficiaries, providers, and suppliers. We also believe the website offers a more convenient tool for the public to find the full list of qualified providers for these specific services and offers more flexibility and “real time” accessibility. In addition, many of the websites have listservs; that is, the public can subscribe and receive immediate notification of any updates to the website. These listservs avoid the need to check the website, as notification of updates is automatic and sent to the subscriber as they occur. If assessing a website proves to be difficult, the contact person listed can provide information.

III. How To Use the Notice

This notice is organized into 15 addenda so that a reader may access the subjects published during the quarter covered by the notice to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals should view the manuals at <http://www.cms.gov/manuals>.

The Director of the Office of Strategic Operations and Regulatory Affairs of CMS, Kathleen Cantwell, having reviewed and approved this document, authorizes Trenesha Fultz-Mimms, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Trenesha Fultz-Mimms,

Federal Register Liaison, Department of Health and Human Services.

Publication Dates for the Previous Four Quarterly Notices

We publish this notice at the end of each quarter reflecting information released by

CMS during the previous quarter. The publication dates of the previous four Quarterly Listing of Program Issuances notices are: April 29, 2024 (89 FR 33356), July 22, 2024 (89 FR 59104), November 7, 2024 (89 FR 88282) and February 19, 2025 (90 FR 9902). We are providing only the specific updates that have occurred in the 3-month period along with a hyperlink to the website to access this information and a contact person for questions or additional information.

Addendum I: Medicare and Medicaid Manual Instructions (January Through March 2025)

The CMS Manual System is used by CMS program components, partners, providers, contractors, Medicare Advantage organizations, and State Survey Agencies to administer CMS programs. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, guidelines, models, and directives. In 2003, we transformed the CMS Program Manuals into a web user-friendly presentation and renamed it the CMS Online Manual System.

How To Obtain Manuals

The Internet-only Manuals (IOMs) are a replica of the Agency’s official record copy. Paper-based manuals are CMS manuals that were officially released in hardcopy. The majority of these manuals were transferred into the internet-only manual (IOM) or retired. Pub 15–1, Pub 15–2 and Pub 45 are exceptions to this rule and are still active paper-based manuals. The remaining paper-based manuals are for reference purposes only. If you notice policy contained in the paper-based manuals that was not transferred to the IOM, send a message via the CMS Feedback tool.

Those wishing to subscribe to old versions of CMS manuals should contact the National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 Telephone (703–605–6050). You can download copies of the listed material free of charge at: <http://cms.gov/manuals>.

How To Review Transmittals or Program Memoranda

Those wishing to review transmittals and program memoranda can access this information at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries

throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL. This information is available at <http://www.gpo.gov/libraries/>.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. CMS publication and transmittal numbers are shown in the listing entitled Medicare and Medicaid Manual Instructions. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the manual Qualifications for Speech-Language Pathologists Furnishing Outpatient Speech-Language Pathology Services (CMS–Pub. 100–02) Transmittal No. 13051.

Addendum I lists a unique CMS transmittal number for each instruction in our manuals or program memoranda and its subject number. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manual.

Fee-For Service Transmittal Numbers

Please Note: Beginning Friday, March 20, 2020, there will be the following change regarding the Advance Notice of Instructions due to a CMS internal process change. Fee-For Service Transmittal Numbers will no longer be determined by Publication. The Transmittal numbers will be issued by a single numerical sequence beginning with Transmittal Number 10000.

For the purposes of this quarterly notice, we list only the specific updates to the list of manual instructions that have occurred in the 3-month period. This information is available on our website at www.cms.gov/Manuals.

These Change Request (CR) are being released on a limited approved basis due to the moratorium.

Transmittal No.	Manual/subject/publication No.
Medicare General Information (CMS–Pub. 100–01)	
13065	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13080	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
Medicare Benefit Policy (CMS–Pub. 100–02)	
13051	Qualifications for Speech-Language Pathologists Furnishing Outpatient Speech-Language Pathology Services.
13088	Updates to Medicare Benefit Policy Manual and Medicare Claims Processing Manual for Opioid Treatment Programs (OTPs).
13121	Implementation of Changes in the End-Stage Renal Disease (ESRD) Prospective Payment System (PPS) and Payment for Dialysis Furnished for Acute Kidney Injury (AKI) in ESRD Facilities for Calendar Year (CY) 2025.
13133	Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Medicare Benefit Policy Manual Chapter 13 Update.
13147	Updates to Medicare Benefit Policy Manual and Medicare Claims Processing Manual for Opioid Treatment Programs (OTPs).

Transmittal No.	Manual/subject/publication No.
Medicare National Coverage Determination (CMS–Pub. 100–03)	
	None.
Medicare Claims Processing (CMS–Pub. 100–04)	
12914	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
12982	Quarterly Update to Home Health (HH) Grouper.
13013	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13032	January 2025 Update of the Hospital Outpatient Prospective Payment System (OPPS).
13037	Clinical Laboratory Fee Schedule—Medicare Travel Allowance Fees for Collection of Specimens and New Updates for 2025.
13038	April 2025 Quarterly Update to Healthcare Common Procedure Coding System (HCPCS) Codes Used for Skilled Nursing Facility (SNF) Consolidated Billing (CB) Enforcement.
13039	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13040	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13042	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13044	January 2025 Update of the Ambulatory Surgical Center [ASC] Payment System.
13045	Calendar Year (CY) 2025 Home Infusion Therapy (HIT) Payment Rates and Instructions for Retrieving the January 2025 Home Infusion Therapy (HIT) Services Payment Rates Through the CMS Mainframe Telecommunications System.
13050	Internet Only Manual Update, Pub. 100–04, Chapter 3 (Inpatient Hospital Billing), Sections 20.1.2.7, 140.2.10, 150.28, 190.7.2.5, and Chapter 4 (Part B Hospital) Section 10.7.2.4 Procedures for Medicare Contractors to Perform and Record Outlier Reconciliation Adjustments.
13055	CR 13923, Payment for Part B Preventive Vaccines and their Administration on the Claim for Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs).
13059	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13061	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13063	Instructions for Retrieving the January 2025 Opioid Treatment Program (OTP) Payment Rates Through the CMS Mainframe Telecommunications System.
13067	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13068	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13072	Instructions for Downloading the Medicare ZIP Code File for April 2025 Files.
13073	Enhancing Compliance and Payment Accuracy for Physician Services in Skilled Nursing Facilities.
13074	Principal Diagnosis Code Reporting Update for Hospice and Manual Updates to Sections 30.3, 40.2, and 50 of Chapter 11 of the Claims Processing Manual: Processing Hospice Claims.
13078	Roster Billing for Hepatitis B—July 2025 Release.
13079	January 2025 Update of the Ambulatory Surgical Center [ASC] Payment System.
13082	File Conversions Related to the Spanish Translation of the Healthcare Common Procedure Coding System (HCPCS) Descriptions.
13084	Update to the Internet Only Manual (IOM) Publication (Pub.) 100–04 Chapter 3, Inpatient Hospital Billing, Section 20.2.1.
13088	Updates to Medicare Benefit Policy Manual and Medicare Claims Processing Manual for Opioid Treatment Programs (OTPs).
13089	Manual Updates Regarding Home Health Adjustments and Skilled Nursing Facility, Home Health and Hospice Pricer Information.
13090	April 2025 Coding Updates for the Inpatient Psychiatric Facilities Prospective Payment System (IPF PPS).
13091	Roster Billing for Hepatitis B—July 2025 Release.
13101	April 2025 Update to the Inpatient Prospective Payment System (IPPS) For Correction to Total Pass-Through Amounts Reported on the Provider Specific File (PSF) to Include Allogeneic Stem Cell Costs.
13102	Healthcare Common Procedure Coding System (HCPCS) Codes Subject to and Excluded from Clinical Laboratory Improvement Amendments (CLIA) Edits.
13103	Quarterly Update to the Medicare Physician Fee Schedule Database (MPFSDB)—April 2025 Update.
13104	Quarterly Update for Clinical Laboratory Fee Schedule (CLFS) and Laboratory Services Subject to Reasonable Charge Payment.
13106	Non-systems Internet Only Manual (IOM) Chapter 25 Changes.
13115	Indian Health Services (IHS) Hospital Payment Rates for Calendar Year 2025.
13116	July 2025 Healthcare Common Procedure Coding System (HCPCS) Quarterly Update Reminder.
13123	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13127	Quarterly Update to the National Correct Coding Initiative (NCCI) Procedure- to-Procedure (PTP) Edits, version 31.2, Effective July 1, 2025.
13135	April 2025 Update of the Hospital Outpatient Prospective Payment System (OPPS).
13147	Updates to Medicare Benefit Policy Manual and Medicare Claims Processing Manual for Opioid Treatment Programs (OTPs).
13148	Calendar Year (CY) 2025 Home Infusion Therapy (HIT) Payment Rates and Instructions for Retrieving the January 2025 Home Infusion Therapy (HIT) Services Payment Rates Through the CMS Mainframe Telecommunications System.
Medicare Secondary Payer (CMS–Pub. 100–05)	
13046	The Recovery and Adjustment of Medicare Claims where the Department of Veteran Affairs (VA) also Made Payment Using the Medicare Duplicate Payment (DP) Process.
13070	Updates to the Medicare Carrier System (MCS), the Viable Information Processing Systems Medicare Systems (VMS) and the Common Working File (CWF) Processes to Capture and Further Automate the Medicare Secondary Payer (MSP) Processes.
Medicare Financial Management (CMS–Pub. 100–06)	
13047	Notice of New Interest Rate for Medicare Overpayments and Underpayments—2nd Quarter Notification for FY 2025.
13071	Updates to the Internet Only Manual (IOM) Publication 100–06 Chapters 3 Overpayments and 4 Debt Collection.
Medicare State Operations Manual (CMS–Pub. 100–07)	
	None.
Medicare Program Integrity (CMS–Pub. 100–08)	
13048	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13049	Documentation for Claims for Replacement of Essential Accessories for Beneficiary-Owned Continuous Glucose Monitors (CGMs).
13060	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13062	Sixteenth General Update to Provider Enrollment Instructions in Chapter 10 of CMS Publication 100–08.
13080	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13085	Update to Provider Enrollment Appeals and Rebuttals Processing Instructions and Model Letters.
13139	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.

Transmittal No.	Manual/subject/publication No.
Medicare Contractor Beneficiary and Provider Communications (CMS–Pub. 100–09)	
13109	The Supplemental Security Income (SSI)/Medicare Beneficiary Data for Fiscal Year (FY) 2023 for Inpatient Prospective Payment System (IPPS) Hospitals, Inpatient Rehabilitation Facilities (IRFs), and Long Term Care Hospitals (LTCHs).
Medicare Quality Improvement Organization (CMS–Pub. 100–10)	
13086	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
Medicare Program of All-Inclusive Care for the Elderly (CMS–Pub. 100–11)	
	None.
Medicare End Stage Renal Disease Network Organizations (CMS Pub 100–14)	
	None.
Medicaid Program Integrity Disease Network Organizations (CMS Pub 100–15)	
	None.
Medicare Managed Care (CMS–Pub. 100–16)	
	None.
Medicare Business Partners Systems Security (CMS–Pub. 100–17)	
	None.
Medicare Prescription Drug Benefit (CMS–Pub. 100–18)	
	None.
Demonstrations (CMS–Pub. 100–19)	
13054	Update—Federally Qualified Health Center (FQHC) Participation in and Payment Under the Maryland Primary Care Program (MDPCP) for Healthcare Common Procedure Coding System (HCPCS) Codes 99453 and 99454.
13064	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13114	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13132	Update—Federally Qualified Health Center (FQHC) Participation in and Payment Under the Maryland Primary Care Program (MDPCP) for Healthcare Common Procedure Coding System (HCPCS) Codes 99453 and 99454.
13138	Accountable Care Organization (ACO) Primary Care Flex Model CO PC Flex Model).
One Time Notification (CMS–Pub. 100–20)	
12770	Updating Calendar Year (CY) 2025 Medicare Diabetes Prevention Program (MDPP) Inflation Payment Rates.
12958	Updates to Billing for Care Coordination Services for Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs).
13034	Phase 4: Implementation to Expand Monetary Amount Fields Related to Billing and Payment to Accommodate 10-Digits in Length (\$99,999,999.99).
13035	Extensions of Certain Temporary Changes to the Low-Volume Hospital Payment Adjustment and the Medicare-Dependent Hospital (MDH) Program under the Inpatient Prospective Payment System (IPPS) provided by the American Relief Act, 2025.
13036	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13041	Editing for Duplicate Processing for Practitioner Professional Services and Critical Access Hospital (CAH) Professional Services.
13043	Fiscal Intermediary Shared System (FISS) Changes to Automate the Application of Condition Code ZC for Chimeric Antigen Receptor (CAR) T-Cell and Other Immunotherapy Cases Involving a Clinical Trial of a Different Product.
13052	CR 13787, User Enhancement Change Request (UECR): ViPS Medicare System (VMS)—Create Error Message in the Beneficiary Information Tracking System (BITS) to Limit the Prior Authorization (PA) Healthcare Common Procedure Coding System (HCPCS) within a Unique Tracking Number (UTN).
13053	CR 13788, User Enhancement Change Request (UECR): ViPS Medicare System (VMS)—Copy Over Existing SuperOp Sequences (Active/Inactive/Archived).
13054	CR 13932, Update—Federally Qualified Health Center (FQHC) Participation in and Payment Under the Maryland Primary Care Program (MDPCP) for Healthcare Common Procedure Coding System (HCPCS) codes 99453 and 99454.
13056	CR 13852, Fiscal Intermediary Shared System (FISS) User Enhancement Change Request (UECR)—Creation of New Reason Codes to Validate the National Provider Identifier (NPI) on Prior Authorization (PA) Unique Tracking Numbers (UTNs) and Claims.
13057	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13058	CR 13779, User Enhancement Change Request (UECR): ViPS Medicare System (VMS)—Updates to the Automated Paperless Exception System (APEX) Request Screen (APEX/1).
13069	Fiscal Intermediary Shared System (FISS) User Enhancement Change Request (UECR)—Create a New Additional Development Request (ADR) Location Prior Authorization (PA) Claims.
13075	Phase 5: Implementation to Expand Monetary Amount Fields Related to Billing and Payment to Accommodate 10-Digits in Length (\$99,999,999.99).
13081	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13083	Rejections in the Medicare Adjudication Portal (MAP).
13087	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13092	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13095	Reporting Identifiers for the Healthcare Integrated General Ledger Accounting System (HIGLAS) Payments Reported for Periodic Interim Payment (PIP) Claims 13096 Utilization of KX Modifier Medicare Physician Fee Schedule Payment for Dental Services Inextricably Linked to Covered Medical Services.
13096	Implementation of the Award for the Jurisdiction J (J–J) Part A and Part B Medicare Administrative Contractor (JJ A/B MAC).
13097	International Classification of Diseases, 10th Revision (ICD–10) and Other Coding Revisions to National Coverage Determinations (NCDs)—July 2025.
13098	Remove Part B Batch Eligibility Process (HELG) from the Common Working File (CWF).
13100	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
13112	User Management in the Medicare Adjudication Portal (MAP) for 837D Dental Claims.
13113	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.

Transmittal No.	Manual/subject/publication No.
13128	User Enhancement Change Request (UECR): ViPS Medicare System (VMS)—Create Error Message in the Beneficiary Information Tracking System (BITS) to Limit the Prior Authorization (PA) Healthcare Common Procedure Coding System (HCPCS) within a Unique Tracking Number (UTN).
13130	Revision to the Cost Report Acceptability Checklists—This CR Rescinds and Fully Replaces CR 11644.
13146	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
Medicare Quality Reporting Incentive Programs (CMS—Pub. 100–22)	
13076	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
State Payment of Medicare Premiums (CMS—Pub.100–24)	
	None.
Information Security Acceptable Risk Safeguards (CMS—Pub. 100–25)	
	None.

For questions or additional information, contact Ronda Allen-Bonner (410–786–4657).

Addendum II: Regulation Documents Published in the Federal Register (January Through March 2025)

Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. To purchase individual copies or subscribe to the **Federal Register**, contact GPO at www.gpo.gov/fdsys. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is available as an online database through *GPO Access*. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) through the present date and can be accessed at <http://www.gpoaccess.gov/fr/index.html>. The following website <http://www.archives.gov/federal-register/> provides information on how to access electronic editions, printed editions, and reference copies.

For questions or additional information, contact Gittel Treitel (410–786–4673).

Addendum III: CMS Rulings (January Through March 2025)

CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters.

The rulings can be accessed at <https://www.cms.gov/medicare/regulations-guidance/cms-rulemaking/rulings>.

For questions or additional information, contact Tiffany Lafferty (410–786–7548).

Addendum IV: Medicare National Coverage Determinations (January Through March 2025)

Addendum IV includes completed national coverage determinations (NCDs), or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCD Manual (NCDM) in which the decision

appears, the title, the date the publication was issued, and the effective date of the decision. An NCD is a determination by the Secretary for whether or not a particular item or service is covered nationally under the Medicare Program (title XVIII of the Act), but does not include a determination of the code, if any, that is assigned to a particular covered item or service, or payment determination for a particular covered item or service. The entries below include information concerning completed decisions, as well as sections on program and decision memoranda, which also announce decisions or, in some cases, explain why it was not appropriate to issue an NCD. Additional information on NCDs, including open NCDs and pending NCDs, can be found on the NCD Dashboard, which is posted on the CMS website at <https://www.cms.gov/medicare/coverage/determination-process>.

For the purposes of this quarterly notice, we are providing only the specific updates to national coverage determinations (NCDs), or reconsiderations of completed NCDs published in the 3-month period.

For questions or additional information, contact Wanda Belle, MPA (410–786–7491).

Title	NCDM section	Transmittal No.	Issue date	Effective date
N/A	N/A	N/A	N/A	N/A

Addendum V: FDA-Approved Category B Investigational Device Exemptions (IDEs) (January Through March 2025)

(Inclusion of this addenda is under discussion internally.)

Addendum VI: Approval Numbers for Collections of Information (January Through March 2025)

All approval numbers are available to the public at Reginfo.gov. Under the review process, approved information collection requests are assigned OMB control numbers. A single control number may apply to several related information collections. This information is available at www.reginfo.gov/public/do/PRAMain.

For questions or additional information, contact William Parham (410–786–4669).

Addendum VII: Medicare-Approved Carotid Stent Facilities (January Through March 2025)

Addendum VII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high-risk patients. On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high

risk patients. For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. There were no additions, deletions, or editorial changes to the listing for Medicare-approved carotid stent facilities for this 3-month period. This information is available at: <http://www.cms.gov/Medicare/ApprovedFacilities/CASF/list.asp#TopOfPage>.

For questions or additional information, contact Sarah Fulton, MHS (410–786–2749).

Addendum VIII: American College of Cardiology's National Cardiovascular Data Registry Sites (January Through March 2025)

The initial data collection requirement through the American College of Cardiology's National Cardiovascular Data Registry (ACC–NCDR) has served to develop and improve the evidence base for the use of ICDs in

certain Medicare beneficiaries. The data collection requirement ended with the posting of the final decision memo for Implantable Cardioverter Defibrillators on February 15, 2018.

For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum IX: Active CMS Coverage-Related Guidance Documents (January Through March 2025)

CMS published three final guidance documents on August 7, 2024, to provide a framework for more predictable and transparent evidence development and encourage innovation and accelerate beneficiary access to new items and services. The documents are available at:

Coverage with Evidence Development: <https://www.cms.gov/medicare-coverage-database/view/medicare-coverage-document.aspx?mcdid=38>.

CMS National Coverage Analysis Evidence Review: <https://www.cms.gov/medicare-coverage-database/view/medicare-coverage-document.aspx?mcdid=37>.

Clinical Endpoints Guidance: Knee Osteoarthritis: <https://www.cms.gov/medicare-coverage-database/view/medicare-coverage-document.aspx?mcdid=36>.

For questions or additional information, contact Lori Ashby, MA (410 786 6322).

Addendum X: List of Special One-Time Notices Regarding National Coverage Provisions (January Through March 2025)

There were no special one-time notices regarding national coverage provisions

published in the 3-month period. This information is available at <http://www.cms.gov>.

For questions or additional information, contact JoAnna Baldwin, MS (410-786 7205).

Addendum XI: National Oncologic PET Registry (NOPR) (January Through March 2025)

Addendum XI includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.

In January 2005, we issued our decision memorandum on positron emission tomography (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the registry. There were no additions, deletions, or editorial changes to the listing of National Oncologic Positron Emission Tomography Registry (NOPR) in the 3-month period. This information is available at <http://www.cms.gov/MedicareApprovedFacilities/NOPR/list.asp#TopOfPage>.

For questions or additional information, contact David Dolan, MBA (410-786-3365).

Addendum XII: Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities (January Through March 2025)

Addendum XII includes a listing of Medicare-approved facilities that receive coverage for ventricular assist devices (VADs) used as destination therapy. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy. On October 1, 2003, we issued our decision memorandum on VADs for the clinical indication of destination therapy. We determined that VADs used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy.

For the purposes of this quarterly notice, we are providing only the specific updates to the list of Medicare-approved facilities that meet our standards that have occurred in the 3-month period. This information is available at <http://www.cms.gov/MedicareApprovedFacilities/VAD/list.asp#TopOfPage>.

For questions or additional information, contact David Dolan, MBA, (410-786-3365).

Facility	Provider No.	Date of initial certification	Date of re-certification	State
The following are new facilities				
HonorHealth Scottsdale Shea, Medical Center, 9003 E. Shea Blvd., Scottsdale, AZ 85260; Other information: DNV ID #: C691982; Previous Re-certification Dates: n/a.	030087	03/04/2025	n/a	AZ
Medical City Fort Worth, 900 Eighth Avenue, Fort Worth, TX 76104; Other information: DNV ID #: C750130; Previous Re-certification Dates: n/a.	450672	03/05/2025	n/a	TX
The following facilities have editorial changes (in bold).				
Christ Hospital, 2139 Auburn Avenue, Cincinnati, OH 45219; Other information: Joint Commission ID #6987; Previous Re-certification Dates: 02/17/2012; 02/20/2014; 04/05/2016; 03/20/2018; 2/26/21; 07/09/2022.	360163	02/17/2012	10/23/2024	OH
Medical University of South Carolina Medical Center, 169 Ashley Avenue, Charleston, SC 29425; Other information: Joint Commission ID #6584; Previous Re-certification Dates: 09/23/2010; 09/07/2012; 08/05/2014; 09/13/2016; 09/26/2018; 03/24/2021; 07/21/2022.	420004	09/23/2010	09/21/2024	SC
Ascension Saint Thomas Hospital, 4220 Harding Pike, Nashville, TN 37205; Other information: Joint Commission ID #7891; Previous Re-certification Dates: 06/22/2010; 06/22/2012; 05/20/2014; 07/13/2016; 01/14/2021; 09/03/2022.	440082	06/22/2010	10/19/2024	TN
Penn State Milton S. Hershey Medical Center, 500 University Drive, Hershey, PA 17033; Other information: Joint Commission ID #6075; Previous Re-certification Dates: 04/01/2008; 03/24/2010; 03/16/2012; 04/08/2014; 06/07/2016; 05/22/2018; 9/11/2020; 06/30/2022.	390256	10/29/2003	10/09/2024	PA
The University of Kansas Hospital Authority, 4000 Cambridge Street, Kansas City, KS 66160-7200; Other information: Joint Commission ID #: 8567; Previous Re-certification Dates: 03/08/2016; 03/06/2018; 07/20/2022.	170040	03/08/2016	10/23/2024	KS
Abington Memorial Hospital, 1200 Old York Road, Abington, PA 19001; Other information: Joint Commission ID #: 6013; Previous Re-certification Dates: 06/28/2012; 06/03/2014; 06/28/2016; 05/22/2018; 07/16/2022.	390231	07/10/2012	10/30/2024	PA
Bethesda North Hospital, 10500 Montgomery Road, Cincinnati, OH 45242; Other information: DNV ID #: C755357; Previous Re-certification Dates: 12/16/2021.	360179	12/16/2021	12/13/2024	OH
Deborah Heart and Lung Center, 200 Trenton Road, Browns Mills, NJ 08051; Other information: DNV ID #: C522707; Previous Re-certification Dates: 02/05/2019; 02/10/2022.	310031	02/05/2019	01/09/2025	NJ
Medical City Dallas, 7777 Forest Lane, Dallas, TX 75230; Other information: Joint Commission ID #9008; Previous Re-certification Dates: 09/09/2008; 08/10/2010; 07/17/2012; 06/27/2014; 07/12/2016; 4/3/2021; 10/20/2022.	450647	09/09/2008	12/04/2024	TX
Lutheran Hospital of Indiana, 7950 West Jefferson Boulevard, Fort Wayne, IN 46804; Other information: Joint Commission ID #7157; Previous Re-certification Dates: 09/14/2010; 10/24/2012; 10/21/2014; 11/01/2016; 05/05/2021; 09/22/2022.	150017	09/14/2010	12/11/2024	IN
Froedtert Memorial Lutheran Hospital, Inc, 9200 West Wisconsin Avenue, Milwaukee, WI 53226; Other information: Joint Commission ID #: 7718; Previous Re-certification Dates: 07/31/2012; 07/08/2014; 08/09/2016; 2021-01-07; 09/14/2022.	520177	07/31/2012	12/11/2024	WI

Facility	Provider No.	Date of initial certification	Date of re-certification	State
Memorial Regional Hospital, 3501 Johnson Street, Hollywood, FL 33021; Other information: Joint Commission ID #: 6811; Previous Re-certification Dates: 08/20/2014; 08/11/2016; 03/27/2021; 10/19/2022.	100038	08/20/2014	12/04/2024	FL
Loma Linda University Medical Center, 11234 Anderson Street, Loma Linda, CA 92354; Other information: Joint Commission #: 9898; Previous Re-certification Dates: 02/07/2012; 01/23/2014; 02/23/2016; 04/10/2018; 05/15/2021; 11/23/2012.	050327	11/23/2012	12/14/2024	CA
California Pacific Medical Center-Van Ness Campus, 1101 Van Ness Avenue, San Francisco, CA 94109; Other information: Joint Commission ID #5152; Previous Re-certification Dates: 12/08/2009; 11/11/2011; 01/07/2014; 02/09/2016; 03/20/2018; 02/20/2021; 11/09/2022.	050047	10/20/2009	12/11/2024	CA
Mayo Clinic Hospital—Rochester, 1216 Second Street SW, Rochester, MN 55902–1906; Other information: Joint Commission ID #: 8181; Previous Re-certification Dates: 02/26/2008; 02/09/2010; 02/21/2012; 02/21/2014; 04/05/2016; 03/23/2018; 03/20/2021; 11/03/2022.	240010	02/26/2008	12/18/2024	MN
Barnes-Jewish Hospital, 1 Barnes Jewish Plaza, Saint Louis, MO 63110; Other information: Joint Commission ID #: 8387; Previous Re-certification Dates: 08/21/2008; 07/27/2010; 07/17/2012; 08/05/2014; 09/13/2016; 11/10/2017; 10–22–2020; 10/05/2022.	260032	08/21/2008	12/11/2024	MO
Indiana University Health, Inc., 1701 North Senate Boulevard, Indianapolis, IN 46202; Other information: Joint Commission ID #: 188549; Previous Re-certification Dates: 08/12/2008; 08/17/2010; 08/17/2012; 08/19/2014; 10/04/2016; 05/29/21; 01/20/2023.	150056	08/12/2008	02/22/2025	IN
Adventist Health System/Sunbelt Inc. dba AdventHealth, 601 East Rollins Street, Orlando, FL 32803; Other information: Joint Commission ID #6873; Previous Re-certification Dates: 10/24/2012; 10/07/2014; 11/15/2016; 01/30/2019; 06/12/2021.	100007	10/24/2012	05/20/2023	FL
Bon Secours St. Mary's Hospital, 5801 Bremond Road, Richmond, VA 23226; Other information: Joint Commission ID #: 6387; Previous Re-certification Dates: 12/15/2011; 12/17/2013; 01/26/2016; 02/21/2018; 06/11/2021.	490059	12/15/2011	03/04/2023	VA
North Shore University Hospital, 300 Community Drive, Manhasset, NY 11030; Other information: Joint Commission ID #: 2091; Previous Re-certification Dates: 09/27/2016; 9/19/2018; 06/26/2021.	330106	09/27/2016	03/29/2023	NY
University of Iowa Hospitals and Clinics, 200 Hawkins Drive, Iowa City, IA 52242; Other information: Joint Commission ID #: 8266; Previous Re-certification Dates: 06/22/2010; 07/26/2012; 07/29/2014; 08/02/2016; 7/11/2018; 4/8/2021; 10/14/2022.	160058	06/22/2010	11/16/2024	IA

Addendum XIII: Lung Volume Reduction Surgery (LVRS) (January Through March 2025)

Addendum XIII includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial were also eligible to receive coverage. The following three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS):

- National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs);
- Credentialed by the Joint Commission (formerly, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS; and
- Medicare approved for lung transplants.

Only the first two types are in the list. For the purposes of this quarterly notice, there are no additions and deletions to a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. This information is available at www.cms.gov/MedicareApprovedFacilities/LVRS/list.asp#TopOfPage.

For questions or additional information, contact Sarah Fulton, MHS (410–786–2749).

Addendum XIV: Medicare-Approved Bariatric Surgery Facilities (January Through March 2025)

Addendum XIV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities must meet our standards in order to receive coverage for bariatric surgery procedures. On February 21,

2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity and have been previously unsuccessful with medical treatment for obesity. This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

There were no additions, deletions, or editorial changes to Medicare-approved facilities that meet CMS' minimum facility standards for bariatric surgery that have been certified by ACS and/or ASMBS in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilities/BSF/list.asp#TopOfPage.

For questions or additional information, contact Sarah Fulton, MHS (410–786–2749).

Addendum XV: FDG–PET for Dementia and Neurodegenerative Diseases Clinical Trials (January Through March 2025)

There were no FDG–PET for Dementia and Neurodegenerative Diseases Clinical Trials published in the 3-month period.

This information is available on our website at www.cms.gov/MedicareApprovedFacilities/PETDT/list.asp#TopOfPage.

For questions or additional information, contact David Dolan, MBA (410–786–3365).

[FR Doc. 2025–08753 Filed 5–15–25; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: The Stem Cell Therapeutic Outcomes Database

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than July 15, 2025.

ADDRESSES: Submit your comments to paperwork@hhsa.gov or mail the HRSA Information Collection Clearance Officer, Room 14NWH04, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email paperwork@hhsa.gov or call Samantha Miller, the HRSA

Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: The Stem Cell Therapeutic Outcomes Database, OMB No. 0915–0310—Revision.

Abstract: The Stem Cell Therapeutic and Research Act of 2005 (Pub. L. 109–129, December 20, 2005), as amended and codified in Section 379A of the Public Health Service Act (42 U.S.C. 247l), provides for the collection and maintenance of human blood stem cells for the treatment of patients and research. The Public Health Service Act requires the Secretary of HHS to contract for the establishment and maintenance of information related to patients who have received stem cell therapeutic products and to do so using an electronic format. HRSA has established the Stem Cell Therapeutic Outcomes Database (SCTOD), one component of the C.W. Bill Young Cell Transplantation Program (Program) which necessitates certain electronic record keeping and reporting requirements to perform the functions related to hematopoietic stem cell transplantation (HCT) under contract to HHS. Data is collected from transplant centers by the Center for International Blood and Marrow Transplant Research and is used for ongoing analysis of transplant outcomes to improve the treatment, survival, and quality of life for patients who may benefit from cellular therapies.

Over time, there is an expected increase in the information reported as the number of transplants performed

annually increases and survivorship after transplantation improves. Similarly, because of the ongoing rapid evolution in transplant indications, methods to establish diagnoses, disease prognostic factors, treatments provided before HCT, methods to determine donor matching, and transplantation techniques, the Program anticipates incremental changes in the information collected by the SCTOD after OMB approval to reflect current clinical care, facilitate statistical modeling throughout the approval period to fulfill Program requirements, keep pace with changes in the field, and to enhance the ability to collect information in an automated fashion from respondent source systems, such as electronic health records. Interim updates to the information collected about disease indications, disease definitions, and disease prognostic factors will be triggered by the publication of peer-reviewed scientific articles or public reference materials of updated criteria by organizations such as the World Health Organization, national or international scientific consensus panels (e.g., European LeukemiaNet, International Working Group for Prognosis in MDS) or similar. The updates mentioned above are anticipated to be reflected as changes in response options to existing information collection and will represent non-substantive changes without additional public notice. Such small incremental changes will not significantly affect the burden.

Need and Proposed Use of the Information: Per statutory responsibilities, the collection of information outlined in the “Total Estimated Annualized Burden Hours”

section below is needed to collect, analyze, and publish stem cell transplantation-related data including patient outcomes data and provide the Secretary with an annual report of transplant center-specific survival data. The proposed revisions of this information collection reflect the most up-to-date medical evidence while simultaneously reducing the HCT facility burden. Revisions fall into several categories: consolidating questions, implementing interactive requests (electronic check boxes, check all that apply, and pull-down menus) to reduce data entry time, adding necessary information fields, adding clarity to information requests and removing items no longer clinically significant (e.g., discontinued or re-named medications).

Likely Respondents: Transplant centers.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below. The estimated total annual burden hours for this submission is 52,469.66.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name ¹	Number of respondents ²	Number of responses per respondent ³	Total responses ⁴	Average burden per response (in hours)	Total burden hours
Pre-Transplant Information Collection	177.00	52.63	⁵ 9,315.51	⁶ 1.42	13,228.02
Transplant Procedure and Product Information	177.00	52.63	⁷ 9,315.51	⁸ 1.06	9,874.44
Post-Transplant Periodic Information Collection based on Predetermined Schedule	177.00	319.07	⁹ 56,475.39	¹⁰ 0.52	29,367.20
Total	177.00	.....	75,106.41	.....	52,469.66

¹ This burden estimate table refers to data collections at different time periods consistent with approved practice. The SCTOD contractor is working with respondents to reduce burden by submitting data using interoperability standards. These data collections may include OMB-approved forms.

² The total number of U.S. transplant centers that submit data to the SCTOD is 177 as of March 29, 2022. The number of centers providing data may change intermittently based on opening or closure of centers.

³ The Number of Responses per Respondent was calculated by dividing the Total Responses by the Number of Respondents and rounding to the nearest hundredth.

⁴ The total number of responses is less than previous calculations because of improvements in estimation. Previous estimates assumed all years had the same number of transplants. This improved estimate includes accurate transplant counts from prior years, which are often less than the current year leading to less follow-up activity.

⁵ Total responses for Pre-Transplant Information Collection equals estimated number of new transplant patients in 2021.

⁶ Pre-transplant Data includes baseline recipient data including patient demographics, pertinent medical history, disease characteristics and status, co-morbidities, transplant data procedure characteristics, including preparative regimen, and donor data. This number is rounded to the nearest hundredth. The actual burden estimate for these data is 1.4175.

⁷ Transplant Procedure and Product Information equals estimated number of new transplant patients in 2021.

⁸ Transplant Procedure and Product Information includes Graft-vs-Host Disease prophylaxis, graft source, donor type and degree of HLA matching and graft manipulation; graft characteristic data for cord blood units, including infused cell dose; and product information. This number is rounded to the nearest hundredth. The actual burden estimate for these data is 1.0616.

⁹ The number of responses for Post-Transplant Periodic Information Collection is based on a predetermined schedule: 100 days after transplant, 6 months after transplant, 1 year after transplant, annually for 6 years after transplant and then biennially thereafter. In any given year the number of responses is a function of the number of transplants in that year, the number of transplants in previous years, and expected patient survival between the time of transplant and any follow-up activity.

¹⁰ Post-Transplant Data Collection includes hematopoietic recovery and engraftment serious complications including Graft-vs-Host Disease and second cancers, disease status, survival status, and cause of death; and subsequent procedures. This number is rounded to the nearest hundredth. The actual burden estimate is 0.5247.

HRSA specifically requests comments on: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2025-08703 Filed 5-15-25; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: The Teaching Health Center Graduate Medical Education Program Reconciliation Tool, OMB No. 0915-0342—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the

Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than July 15, 2025.

ADDRESSES: Submit your comments to paperwork@hrsa.gov or mail the HRSA Information Collection Clearance Officer, Room 14NWH04, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email paperwork@hrsa.gov or call Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 443-3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: The Teaching Health Center Graduate Medical Education (THCGME) Program Reconciliation Tool OMB No. 0915-0342—Revision.

Abstract: The THCGME program, authorized by Section 340H of the Public Health Service Act, was established by Section 5508 of Public Law 111-148. The Full-Year Continuing Appropriations and Extensions Act, 2025 (Pub. L. 119-4) provide continued funding for the THCGME program.

The THCGME payments support training for primary care residents in community-based ambulatory patient care settings. HRSA collects information from THCGME program award recipients using an OMB-approved reconciliation tool. HRSA seeks to

extend its approved information collection and is increasing the total estimated annual burden hours associated with the collection, due to an increase in the number of program award recipients from 83 to 87.

Need and Proposed Use of the Information: THCGME program payments are prospective payments, and the statute provides for a reconciliation process, through which overpayments may be recouped, and adjustments made, at the end of the fiscal year. This data collection instrument will gather information relating to the number of resident full-time equivalents in Teaching Health Center training programs to reconcile payments.

Likely Respondents: The likely respondents to the THCGME Reconciliation Tool are THCGME program award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
THCGME Reconciliation Tool	87	1	87	2	174
Total	87	.....	87	.....	174

HRSA specifically requests comments on: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2025–08704 Filed 5–15–25; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; 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 National Advisory Council for Human Genome Research.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Human Genome Research.

Date: June 17, 2025.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Human Genome Research Institute, National Institutes of Health, 6700 Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Hybrid Meeting).

Contact Person: Jennifer L. Troyer, Ph.D., Director, Division of Extramural Operations, National Institutes of Health, NIH, 6700 Rockledge Drive, Suite 3100, Bethesda, MD 20892, (301) 480–3565, troyerj@mail.nih.gov.

Information is also available on the Institute's/Center's home page: <https://www.genome.gov/council>, where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: May 13, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–08747 Filed 5–15–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Council of Councils.

The meeting will be held as a hybrid meeting held in-person and virtually and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations, to view the meeting should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting website (<https://videocast.nih.gov/>).

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Council of Councils.

Date: May 29, 2025.

Open: May 29, 2025, 10:00 a.m. to 12:15 p.m.

Agenda: Welcome and Opening Remarks; Announcements; NIH Program Updates; Presentations; and Other Business of the Committee.

Place: National Institutes of Health, Building 35A, 35 Convent Drive, Rooms 620/630/640, Bethesda, MD 20892 (Virtual Meeting).

Closed: May 29, 2025, 12:15 p.m. to 01:15 p.m.

Agenda: Review of Grant Applications.

Place: National Institutes of Health, Building 35A, 35 Convent Drive, Rooms 620/630/640, Bethesda, MD 20892 (Virtual Meeting).

Open: May 29, 2025, 01:15 p.m. to 01:55 p.m.

Agenda: NIH Program Updates; Presentations; and Other Business of the Committee.

Place: National Institutes of Health, Building 35A, 35 Convent Drive, Rooms 620/

630/640, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Franziska Grieder, D.V.M., Ph.D., Executive Secretary, Council of Councils, Director, Office of Research Infrastructure Programs, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, 6701 Democracy Boulevard, Room 948, Bethesda, MD 20892, GriederF@mail.nih.gov, 301–435–0744.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Council of Council's home page at <https://dpcpsi.nih.gov/council/> where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: May 13, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–08752 Filed 5–15–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: <https://videocast.nih.gov/>.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: June 17, 2025.

Open: 3:00 p.m. to 3:30 p.m.

Agenda: Council Business.

Address: National Institutes of Health, Democracy II, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Break: 3:30 p.m.–3:45 p.m.

Closed: 3:45 p.m. to 4:15 p.m.

Agenda: Division of Diabetes, Endocrinology, & Metabolic Diseases Subcommittee to review and evaluate grant applications.

Address: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 7329, Bethesda, MD 20892 (Virtual Meeting).

Closed: 3:45 p.m. to 4:15 p.m.

Agenda: Division of Digestive Diseases & Nutrition Subcommittee to review and evaluate grant applications.

Address: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 7329, Bethesda, MD 20892 (Virtual Meeting).

Closed: 3:45 p.m. to 4:15 p.m.

Agenda: Division of Kidney, Urologic, & Hematologic Diseases Subcommittee to review and evaluate grant applications.

Address: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 7329, Bethesda, MD 20892 (Virtual Meeting).

Break: 4:15 p.m.–4:30 p.m.

Closed: 4:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Democracy II, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Karl F. Malik, Ph.D., Director Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 7329, MSC 5452, Bethesda, MD 20892, (301) 594-4757, malikk@niddk.nih.gov.

Information is also available on the Institute's/Center's home page: <https://www.niddk.nih.gov/about-niddk/advisory-coordinating-committees/national-diabetes-digestive-kidney-diseases-advisory-council>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 13, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025-08751 Filed 5-15-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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 National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: August 15, 2025.

Closed: 11:00 a.m. to 12:30 p.m.

Agenda: Grant applications.

Address: National Institutes of Health, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Darren D. Sledjeski, Ph.D., Director Division of Extramural Activities (DEA), National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Blvd., Bethesda, MD 20892, (301) 451-7766, darren.sledjeski@nih.gov.

Information is also available on the Institute's/Center's home page: <https://www.niams.nih.gov/about/working-groups/advisory-council>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 13, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025-08744 Filed 5-15-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 Division of Intramural Research Board of Scientific Counselors, NIAID.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 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 Of Allergy And Infectious Diseases, 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: Division of Intramural Research Board of Scientific Counselors, NIAID.

Date: June 9–11, 2025.

Time: 7:30 a.m. to 10:45 a.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Address: National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 50, Conference Room 1227/1233, 50 Center Drive, Bethesda, MD 20892.

Meeting Format: In Person.

Contact Person: Amy Collins, NIAID Committee Manager, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4G39, Bethesda, MD 20892, 301-402-7684, amy.collins@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 13, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025-08750 Filed 5-15-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: c-Abl Tyrosine Kinase Inhibitory Compound Embodiments and Methods of Making and Using the Same

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Center for Advancing Translational Sciences, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the **SUPPLEMENTARY INFORMATION** section of this Notice to Neurala Bio, Inc. (Neurala), headquartered in Delaware.

DATES: Only written comments and/or applications for a license which are received by the National Center for Advancing Translational Sciences' Office of Strategic Alliances on or before June 2, 2025 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Jasmine Kalsi, M.S., Licensing and Patenting Manager, Office of Strategic Alliances, Telephone: 301-435-0129; Email: jasmine.kalsi@nih.gov.

SUPPLEMENTARY INFORMATION:

Intellectual Property

"C-Abl Tyrosine Kinase Inhibitory Compound Embodiments and Methods of Making and Using the Same"

- (1) U.S. Patent Application No. 16/976,012, HHS Ref. No. E-253-2017-0-US-03, which was issued as Patent Number 11,649,218 on May 16, 2023
- (2) Chile Patent Application No. 2317-2020, HHS Ref. No. E-253-2017-0-CL-04, which was issued as Patent Number CL67.840 on August 2, 2023
- (3) U.S. Patent Application No. 18/128,603, HHS Ref. No. E-253-2017-0-US-02, filed on March 30, 2023 (Pending)

The patent rights in these inventions have been either assigned and/or exclusively licensed to the government of the United States of America and Pontificia Universidad Catolica de Chile.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to the following:

"Use of NCGC00373060, also known as "NEUROTINIB" and its analogs for the treatment of central nervous system disorders, including Epilepsy, Parkinson's Disease, Lysosomal Storage Disorders (Niemann Pick C and A, Tay-Sachs, Gaucher's Disease), and Alzheimer's Disease."

The inventions relate to a series of novel compounds that inhibit c-Abl tyrosine kinase by binding to an allosteric site of the c-Abl tyrosine kinase. These compounds have favorable tolerability, high potency, high selectivity, good brain penetration, and robust efficacy. All of this allows them to potentially treat diseases such as cancers or neurodegenerative disease.

The compounds of the subject inventions can be used individually or in combination to develop new therapies to treat diseases involving the c-Abl tyrosine kinase, specifically diseases resulting from overexpression of c-Abl tyrosine kinase. The diseases resulting from overexpression of c-Abl tyrosine kinase include frontal temporal dementia associated with ALS, primary lateral sclerosis, Sly syndrome, glioblastoma, neuroblastoma and viral pathogenesis resulting from HIV.

This Notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published Notice, the National Center for Advancing Translational Sciences receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 12, 2025.

Joni L. Rutter,

Director, Office of the Director, National Center for Advancing Translational Sciences.

[FR Doc. 2025-08742 Filed 5-15-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Cancellation of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Minority Health and Health Disparities Special Emphasis Panel, June 23, 2025, 10:00 a.m. to June 27, 2025, 6:00 p.m., National Institutes of Health, NIMHD, DEM II, Suite 800, 6707 Democracy Boulevard, Bethesda, MD 20892 which was published in the **Federal Register** on April 9, 2025, FR Doc 2025-06092, 90 FR 15255.

This meeting notice is to cancel the meeting scheduled June 18, 2025. This meeting will not be rescheduled.

Dated: May 13, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025-08748 Filed 5-15-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Office of Research Infrastructure Programs Special Emphasis Panel; (ZOD1), STOD Member Conflict.

Date: June 17, 2025.

Time: 11:00 a.m. to 04:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (Video Assisted Meeting).

Contact Person: Stephanie Hicks, Scientific Review Officer (SRO), Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-5710, stephanie.hicks@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: May 13, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025-08749 Filed 5-15-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection: 30-Day Comment Request; Collection of Customer Service, Demographic, and Smoking/Tobacco Use Information From the National Cancer Institute's (NCI) Cancer Information Service (CIS)

AGENCY: National Institutes of Health, Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide an

opportunity for public comment on proposed data collection projects, the National Institutes of Health, National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

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: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Candace Maynard, Branch Chief, Cancer Information Service Branch, CISB/OCPL, 9609 Medical Center Drive, Rockville, MD 20850, or call non-toll-free number 240-276-6657 or email your request, including your address to: deatonc@mail.nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on October 7, 2024 (89 FR 81088) and allowed 60 days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the

respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection Title: Collection of Customer Service, Demographic, and Smoking/Tobacco use Information from the National Cancer Institute's (NCI) Cancer Information Service (CIS), 0925-0208, Expiration Date 3/31/2025, REINSTATEMENT WITH CHANGE, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Cancer Institute (NCI) currently collects: (1) customer service and demographic information from clients of the Cancer Information Service (CIS) to properly plan, implement, and evaluate cancer education efforts; (2) smoking/tobacco use behavior of individuals seeking NCI's smoking cessation assistance to provide smoking cessation services tailored to the individual client's needs and track their smoking behavior at follow up. This is a request for OMB to approve a revised submission for an additional three years to provide ongoing customer service and collection of demographic information from CIS clients for the purpose of program planning and evaluation.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 6,343 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Category of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Demographic & Customer Satisfaction Questions (Appendix 1A or 1AB).	Individuals	15,754	1	3/60	788
Live Help Questions (Appendix 1B)	Individuals	17,589	1	2/60	586
Smoking Cessation "Intake" Questions (Appendix 1C)	Individuals	8,839	1	6/60	884
Smoking Call Backs (Appendix 1D)	Individuals	8,840	1	4/60	589
VA Call Backs (Appendix 1E)	Individuals	26,055	1	4/60	1,737
Cancer Info Call Backs (Appendix 1F)	Individuals	1,841	1	4/60	123
Email Intake Form (Appendix 2)	Individuals	9,740	1	10/60	1,623
Demographic & Customer Satisfaction Questions (Appendix 9)	Individuals	400	1	2/60	13
Totals .....	.....	.....	89,058	.....	6,343

Dated: May 13, 2025.

Melissa M. Park,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2025-08761 Filed 5-15-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2025-0100]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625-0119

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625-0119, Coast Guard Exchange System Scholarship Application; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 15, 2025.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG-2025-0100] to the Coast Guard using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the "Public participation and request for comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: Commandant (CG-6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593-7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone (571) 607-4058, or email hqs-dg-m-cg-61-pii@uscg.mil for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.*, chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, USCG-2025-0100, and must be received by July 15, 2025.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. We review all comments received, but we may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Coast Guard Exchange System Scholarship Application.

OMB Control Number: 1625-0119.

Summary: The information collected on this form allows the Coast Guard Exchange System Scholarship Program Committee to evaluate and rank scholarship applications in order to award the annual scholarships.

Need: Commandant Instruction, COMDTINS 1780.1 (series), provides policy and procedure for the award of annual scholarships from the Coast Guard Exchange System to dependents of Coast Guard members and its employees. The information collected by this form allows for the awarding of scholarships based upon the criteria and procedures outlined in the Instruction under the auspices of 5 U.S.C. 301.

Forms: CG-5687.

Respondents: Coast Guard dependents.

Frequency: Annually.

Hour Burden Estimate: The estimated burden remains 120 hours per year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 13, 2025.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2025-08815 Filed 5-15-25; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0054]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Notice of Naturalization Oath Ceremony

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites

the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until July 15, 2025.

ADDRESSES: All submissions received must include the OMB Control Number 1615-0054 in the body of the letter, the agency name and Docket ID USCIS-2006-0055. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS-2006-0055.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Jerry Rigdon, Acting Chief, telephone number (240) 721-3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2006-0055 in the search box. Comments must be submitted in English, or an English translation must be provided. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public

viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice of Naturalization Oath Ceremony.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N-445; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information furnished on Form N-445 refers to events that may have occurred since the applicant's initial interview and prior to the administration of the oath of allegiance. Several months may elapse between these dates and the information that is provided assists the officer in rendering an appropriate decision on the application. USCIS will use the information collected to ensure that all decisions made prior to the respondent's naturalization remain valid and that no action on the part of respondent has invalidated any of those decisions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of

respondents for the information collection N-445 is 593,233 and the estimated hour burden per response is 0.25 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total annual hour burden associated with this collection is 148,308 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$0.00.

Dated: May 12, 2025.

Jerry L. Rigdon,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2025-08757 Filed 5-15-25; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7106-N-05]

Privacy Act of 1974; System of Records

AGENCY: Office of the Chief Financial Officer, Housing and Urban Development.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Housing and Urban Development (HUD), Office of the Chief Financial Officer (OCFO) Accounting Operations Center, is issuing a public notice of its intent to create a modified system of records titled, "HUD Remittance and Debt Collection." The purpose of the HUD Remittance and Debt Collection (HRDC) is to provide OCFO with the ability to track debts and remittances. The modification to this SORN is the addition of Taxpayer ID number as a data element collected by HRDC.

DATES: Comments will be accepted on or before June 16, 2025. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number or by one of the following methods:

Federal e-Rulemaking Portal: <https://www.regulations.gov>. Follow the instructions provided on that site to submit comments electronically.

Fax: 202-619-8365.

Email: privacy@hud.gov.

Mail: Attention: Privacy Office;
LaDonne White, Chief Privacy Officer;
The Office of Executive Secretariat, 451
7th Street SW, Room 10139;
Washington, DC 20410–0001.

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

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

FOR FURTHER INFORMATION CONTACT:

LaDonne White, 451 7th Street SW, Room 10139, Washington, DC 20410–0001, telephone number (202) 708–3054 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION: HUD, Office of the Chief Financial Officer (OCFO) maintains the “HUD Remittance and Debt Collection (HRDC)” system of records. HRDC allows data from multiple sources to be integrated into a single store. It tracks remittances and debts along with debtor information to facilitate debt servicing and posting transactions in the general ledger. Information is collected from multiple sources. OCFO Accounting Operations Center collects via encrypted email, paper/mail, official form (sent via mail/encrypted email), and/or Federal (public) information system. The gathered researched data is then entered into the Remittance Management and Debt Tracking database.

The Debt Tracking sources are Program Office Action Officials (Repayment Agreements), Office of the Inspector General, District Courts (Judgment in a Criminal Case), and the Public Access to Court Electronic Records (PACER) System.

SYSTEM NAME AND NUMBER:

HUD Remittance and Debt Collection (HRDC), HUD/CFO–05.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the HUD OCFO, Accounting Operations Center,

307 W 7th St., Suite 1000, Fort Worth, TX 76102–5100.

SYSTEM MANAGER(S):

Mary L. Dominguez, Director, Office of the Chief Financial Officer, Accounting Operations Center, 307 W 7th St., Suite 1000, Fort Worth, TX 76102–5100; Phone (817) 978–5669.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Debt Collection Act of 1982, Public Law 97–365, 96 Stat. 1749 (1982), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701–3720E (original version at Pub. L. 104–134, 110 Stat. 132 (1996)), the Federal Debt Collection Procedures Act of 1990, 28 U.S.C. 3001–3308 (original version at Pub. L. 101–647, 104 Stat. 4789 (1990)) and chapter 31 of title 44, United States Code, and HUD Debt Collection Handbook, 1900.25 Rev-5.

PURPOSE(S) OF THE SYSTEM:

The HRDC database allows HUD OCFO to track remittances and debts. OCFO Accounting Operations Centers collects and maintains debtors’ information to locate and correspond with them to collect/resolve their debts. The information is used to perform legal, financial, and administrative services associated with the collection of debts due to the United States, ultimately posting to debtor accounts (general ledger) and for financial reporting.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or grantees that have been adjudicated to owe a debt or criminal restitution to the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Debtor’s full name, social security number (SSN), Taxpayer ID number, home address and telephone number.

RECORD SOURCE CATEGORIES:

The Debt Tracking sources are Program Office Action Officials (Repayment Agreements), Office of the Inspector General (Form 15–G), District Courts (Judgment in a Criminal Case), and the Public Access to Court Electronic Records (PACER) System.

The Remittance Management sources are Treasury’s Collection Information Repository (CIR) which includes Fedwire—Federal Reserve Bank of New York, Electronic Check Processing (ECP)—Lockboxes, and *Pay.gov*; and Treasury’s Intra-governmental Payments and Collections (IPAC) System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

(1) To the Department of Treasury, Bureau of Fiscal Service, who provides debt and cash collection services for HUD as follows:

(a) Administrative Offset (Debt Collection): offsets Federal tax refund payments and non-tax payments certified for disbursement to the debtor to recover a delinquent debt.

(b) Cross-servicing (Debt Collection): pursues recovery of delinquent debts on behalf of Federal agencies using debt collection tools authorized by statute, such as private collection agencies, administrative wage garnishment, or public dissemination of an individual’s delinquent indebtedness; or any other legitimate debt collection purpose.

(2) To the Department of Treasury, Internal Revenue Services (IRS) for the purposes of reporting canceled debt on form IRS 1099–C.

(3) To appropriate agencies, entities, and persons when (1) HUD suspects or has confirmed that there has been a breach of the system of records, (2) HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HUD’s efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(4) To another Federal agency or Federal entity, when HUD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(5) To appropriate Federal, State, local, Tribal, or other governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where HUD determines that the information would assist in the enforce civil or criminal laws, when such records, either alone or in conjunction with other information,

indicate a violation or potential violation of law.

(6) To a court, magistrate, administrative tribunal, or arbitrator in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, mediation, or settlement negotiations; or in connection with criminal law proceedings; when HUD determines that use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where HUD has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

(7) To any component of the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when HUD determines that the use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where the Department of Justice or agency conducting the litigation has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

(8) To contractors, grantees, experts, consultants and their agents, or others performing or working under a contract, service, grant, cooperative agreement, or other agreement with HUD, when necessary to accomplish an agency function related to a system of records. Disclosure requirements are limited to only those data elements considered relevant to accomplishing an agency function.

(9) To a congressional office from the record of an individual, in response to an inquiry from the congressional office made at the request of that individual.

(10) Pursuant to 31 U.S.C. 3711(e) that information contained in this system of records may also be disclosed to a consumer reporting agency when trying to collect a claim owed on behalf of the government.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper and Electronic.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Debtor's Full Name, SSN, Home Address, Telephone number, Taxpayer ID number, and Assigned Account Number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Record retention is in conformance with National Archives and Records Administration (NARA) General Records Schedule (GRS) 1.1: Financial Management and Reporting Records; DAA-GRS-2013-0003. Financial transaction records related to procuring goods and services, paying bills, collecting debts and accounting records. Destroy 6 years after final payment or cancellation, but longer if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Only authorized users in the OCFO, Accounting Operations Center will have access to system data. Entities outside of the Accounting Operations Center do not have direct access to the database. All OCFO employees are required to complete information systems security training annually and are reminded periodically about policies and procedures in this area.

Other safeguards are implemented. Paper records are stored in locked file cabinets.

Administrative Safeguards: Paper records are stored in locked file cabinets.

Technical Safeguards: Comprehensive electronic records are maintained and stored on a shared drive in an electronic encryption database system. These records can only be accessed based off the user's rights and privileges to the system. Electronic records are stored on the Shared Drive environment, which runs on the Department's network (HUD). This environment complies with the security and privacy controls and procedures as described in the Federal Information Security Management Act (FISMA), National Institute of Standards and Technology (NIST) Special Publications, and Federal Information Processing Standards (FIPS). A valid HSPD-12 ID Credential, access to HUD's LAN, a valid User ID and Password and a Personalized Identification Number (PIN) is required to access the records. These records are restricted to only those persons with a role in the Anti-Harassment Program, having a need to

access them in the performance of their official duties.

For Electronic Records (cloud based): Comprehensive electronic records are secured and maintained on a cloud-based software server and operating system that resides in Federal Risk and Authorization Management Program (FedRAMP) and Federal Information Security Management Act (FISMA) Moderate dedicated hosting environment. All data located in the cloud-based server is firewalled and encrypted at rest and in transit. The security mechanisms for handling data at rest and in transit are in accordance with HUD encryption standards.

RECORD ACCESS PROCEDURES:

Individuals requesting records of themselves should address written inquiries to the Department of Housing Urban and Development 451 7th Street SW, Washington, DC 20410-0001. For verification, individuals should provide their full name, current address, and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 24 CFR 16.4.

CONTESTING RECORD PROCEDURES:

The HUD rule for contesting the content of any record pertaining to the individual by the individual concerned is published in 24 CFR 16.8 or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals requesting notification of records of themselves should address written inquiries to the Department of Housing Urban Development, 451 7th Street SW, Washington, DC 20410-0001. For verification purposes, individuals should provide their full name, office or organization where assigned, if applicable, and current address and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 24 CFR 16.4.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

N/A.

HISTORY:

Docket No. FR-7092-N-07, January 10, 2024 at 89 FR 1587.

Shalanda Capehart,

Acting, Chief Privacy Officer, Office of Administration.

[FR Doc. 2025-08695 Filed 5-15-25; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs**

[256A2100DD/AAKC001030/
A0A501010.000000]

HEARTH Act Approval of the Choctaw Nation of Oklahoma Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs approved the Choctaw Nation of Oklahoma Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into agriculture, business, residential, wind and solar, wind energy evaluation, and public leases without further Secretary of the Interior approval.

DATES: The Assistant Secretary—Indian Affairs issued the approval on May 13, 2025.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, carla.clark@bia.gov, (702) 484-3233.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary.

Participating Tribes develop Tribal Leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces

that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Choctaw Nation of Oklahoma.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal Government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal Government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because “tax on the payment of rent is indistinguishable from an impermissible tax on the land.” *See Seminole Tribe of Florida v. Stranburg*, 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of “traditional notions of Indian self-government,” requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation

of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to “allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.” 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes “flexibility to adapt lease terms to suit [their] business and cultural needs” and to “enable [Tribes] to approve leases quickly and efficiently.” H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that “[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding”). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal Government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and

reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to 25 CFR part 162.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or 25 CFR part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Choctaw Nation of Oklahoma.

Scott J. Davis,

*Senior Advisor to the Secretary of the Interior,
Exercising the delegated authority of the
Assistant Secretary—Indian Affairs.*

[FR Doc. 2025-08790 Filed 5-15-25; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0040144;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: Field Museum, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Field Museum intends to repatriate certain cultural items that meet the definition of sacred objects and that have a known lineal descendant.

DATES: Repatriation of the cultural items in this notice may occur on or after June 16, 2025.

ADDRESSES: June Carpenter, NAGPRA Director, Field Museum, 1400 S Lake Shore Drive, Chicago, IL 60605, telephone (312) 665-7820, email jcarpenter@fieldmuseum.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Field Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one lot of cultural items has been requested for repatriation. The one

lot of sacred objects consists of carved wood items. They were collected by George Dorsey in 1898 from what is now Issaquah, on the southeast end of Lake Sammamish in Washington State, and accessioned by the Field Museum in 1899. There is no known presence of any potentially hazardous substances.

Determinations

The Field Museum has determined that:

- The one lot of sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.
- Blake Shelafoe is connected to the cultural items described in this notice.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the Field Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Field Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-08770 Filed 5-15-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0040141;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: California State University, Chico, Chico, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California State University, Chico, California has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after June 16, 2025.

ADDRESSES: Dawn Rewolinski, Chico State, 400 West First Street, Chico, CA 95929, telephone (530) 898-3090, email drewolinski@csuchico.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Chico State and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least one individual have been identified. In June of 1968, remains were sent to Chico State from Tonopah, Nevada. No associated funerary objects are present.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

Chico State has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Duckwater Shoshone Tribe (previously listed as Duckwater

Shoshone Tribe of the Duckwater Reservation, Nevada).

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, Chico State must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. Chico State is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-08767 Filed 5-15-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0040149;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: University of Illinois Urbana- Champaign, Champaign, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Illinois Urbana-Champaign has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian

Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after June 16, 2025.

ADDRESSES: Krystiana Krupa, University of Illinois Urbana-Champaign, 601 E John Street, Champaign, IL 61820, telephone (217) 244-2587, email klkrupa@illinois.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Illinois Urbana-Champaign, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, two individuals have been identified. The one associated funerary object is a small mammal mandible fragment. The human remains are recorded as being from "12 miles west of the Swannee [Suwannee] River" in Florida, with no associated site name or number. The University retains no records indicating how the human remains came to be in the custody of the University. The University is not aware of any potentially hazardous substances used to treat any of the human remains.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The University of Illinois Urbana-Champaign has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- The one object described in this notice is reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary object described in this notice and the Miccosukee Tribe of Indians; Seminole Tribe of Florida; and The Seminole Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the University of Illinois Urbana-Champaign must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Illinois Urbana-Champaign is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-08775 Filed 5-15-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0040146;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: Oakland Museum of California, Oakland, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Oakland Museum of California intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after June 16, 2025.

ADDRESSES: Anna Bunting, Oakland Museum of California, 1000 Oak Street, Oakland, CA 94607, telephone 510-318-8493, email nagpra@museumca.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Oakland Museum of California, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 15 cultural items, or lots of items, have been requested for repatriation. The 15 objects of cultural patrimony are baskets, awls, a cocoon rattle, gambling bones, ear ornaments, a salmon-gig, an arrow straightener, a flute, a sinker stone, and valley quail scalps.

Fourteen of these items were collected by Charles P. Wilcomb between September 29–November 28, 1911 and were removed from Butte County at that time. They were acquired by the Oakland Public Museum on December 11, 1911.

Museum records for these 14 items show one cocoon rattle and one set of four gambling bones were received from Capt. Charlie, Cherokee, Butte County. One basket and one set of awls were received from a woman identified as Dixie's wife at Camp Creek, Feather River Canyon, Butte County. One basket, one pair of ear ornaments, one salmon-gig, one awl, one arrow straightener, one flute, one sinker stone, and one lot of four male valley quail scalps were received from Oscar Johnson, Dogwood Rancheria, Feather River Canyon, Butte County. Two baskets were received from Jeff Grant, Chino Creek, Feather River Canyon.

One basket was also collected by Charles P. Wilcomb but is without a collecting date. This basket is listed in museum records as having been collected at Berry Creek, Butte County. It was donated to the Oakland Public Museum on December 7, 1915 by Louise Wilcomb, Charles Wilcomb's daughter, after his death in 1915.

The Oakland Public Museum and its collections were merged into the Oakland Museum of California in 1969.

The presence of potentially hazardous substances on these particular items is unknown.

Determinations

The Oakland Museum of California has determined that:

- The 15 objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Berry Creek Rancheria of Maidu Indians of California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the Oakland Museum of California must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Oakland Museum of California is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-08772 Filed 5-15-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0040151; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation:
Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Peabody Museum of Archaeology and Ethnology, Harvard University (PMAE) intends to repatriate certain cultural items that meet the definition of sacred objects and/or objects of cultural patrimony that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after June 16, 2025.

ADDRESSES: Deanna Byrd, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 384-0672, email deannabyrd@fas.harvard.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the PMAE, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 18 cultural items have been requested for repatriation. The six objects of cultural patrimony are six lots of stone artifacts that were removed from the Calicos-Manix Lake in San Bernardino County, CA, by the Southwest Museum at an unknown date. They were acquired by the PMAE in 1958 as part of an exchange with the Southwest Museum.

The 12 sacred objects/objects of cultural patrimony are 11 baskets and one lot of ceremonial regalia. Most of the baskets have identified makers, all of whom were known makers within the Serrano community and include Mrs. Pino, Dolores Crispin, Josephine Quatte, Trinidad Ormiga, and Marie Johnson. The baskets were collected from mostly

unspecified locations in California by Reverend J. W. Millar, Mrs. Charles W. Eliot, and Grace Nicholson in 1904, 1905, and 1923. The baskets were donated to the PMAE by Lewis Hobart Farlow and Mrs. Charles W. Eliot in 1904, 1909, and 1923. The one lot of ceremonial regalia was collected from the Serrano Mission in California by Grace Nicholson at an unknown date and donated to the PMAE by Lewis Hobart Farlow in 1905.

Determinations

The PMAE has determined that:

- The six objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- The 12 sacred objects/objects of cultural patrimony described in this notice are, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).

- There is a reasonable connection between the cultural items described in this notice and the Yuhaaviatam of San Manuel Nation (*previously* listed as San Manuel Band of Mission Indians, California).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the PMAE must determine the most appropriate requestor prior to

repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The PMAE is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-08777 Filed 5-15-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-DTS-NPS0040142; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Land Management, Arizona State Office, Phoenix, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Arizona State Office has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after June 16, 2025.

ADDRESSES: Raymond Suazo, Arizona State Director, BLM Arizona State Office, One North Central Avenue, Suite 800, Phoenix, AZ 85004, telephone (602) 417-9500, email rmsuazo@blm.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the BLM Arizona State Office and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified. No associated funerary objects are present. In 1985 and 1986, AZ AA:11:79(ASM) was identified during the Los Robles Archaeological Survey. One adult cremation was found, recorded, and removed. The ancestor is housed at the Arizona State Museum (ASM). No records indicate treatment of the human remains with any possibly hazardous substances.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition historic of the human remains described in this notice.

Determinations

The BLM Arizona State Office has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Ak-Chin Indian Community; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the BLM Arizona State Office must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The BLM Arizona State Office is responsible for sending a copy of this notice to the

Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-08768 Filed 5-15-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0040145;
PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Energy, Idaho Operations Office, Idaho Falls, ID

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of Energy, Idaho Operations Office has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after June 16, 2025.

FOR FURTHER INFORMATION CONTACT: Mr. Michael McAnulty, Deputy Manager, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS-1203, Idaho Falls, ID 83415, telephone (208) 526-5859, email mcanulmj@id.doe.gov and Mr. R. Douglas Herzog, National Environmental Policy Act Compliance Officer, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS-1216, Idaho Falls, ID 83415, telephone (208) 244-9465, email herzogrd@id.doe.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Department of Energy, Idaho Operations Office and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The remains are curated in the Idaho Museum of Natural History's Earl H. Swanson Archaeological Repository located at Idaho State University in Pocatello, Idaho. Accession records from the Museum indicate the human remains consist of two cranial fragments described as two halves of the parietal fragment glued together and exhibiting blackened or burned surfaces. A forensic exam performed by the Museum noted the bones exhibit a high sheen which may indicate the presence of a preservative, although the preservative is not further described. The remains were removed in 1961 from the Department of Energy's National Reactor Testing Station, now Idaho National Laboratory Site, in Butte County, Idaho. An engineer employed by the F. C. Torkelson Company, which was performing engineering and construction work at the Site, gave the fragments to an anthropologist with the Idaho State University Museum, now Idaho Museum of Natural History, who was recording archaeological sites southeast of Cinder Butte on Department of Energy lands as part of the Birch Creek Project. The engineer donated the fragments to the Museum and indicated they were from a lava tube 4-5 miles northeast of the Central Facilities Area on the Site. Examination by an Idaho State University forensic anthropologist confirmed the fragments are human. The Museum's documentation suggests a Native American biological affinity with Shoshone-Bannock cultural affiliation based on the geographic location.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

The Department of Energy has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Shoshone-Bannock Tribes of the Fort Hall Reservation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be

sent to the authorized representative identified in this notice under **FOR FURTHER INFORMATION CONTACT**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the Department of Energy, Idaho Operations Office must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Department of Energy, Idaho Operations Office is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-08771 Filed 5-15-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0040154;
PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: South Carolina Institute of Archaeology and Anthropology, Columbia, SC; South Carolina Department of Parks, Recreation, and Tourism, Columbia, SC; South Carolina State Museum, Columbia, SC; U.S. Department of the Interior, Fish and Wildlife Service, Pinckney Island National Wildlife Refuge, Hardeeville, SC, and Santee National Wildlife Refuge, Summerton, SC; University of North Carolina at Chapel Hill, Research Laboratories of Archaeology, Chapel Hill, NC; and Yale Peabody Museum, New Haven, CT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the South

Carolina Institute of Archaeology and Anthropology (SCIAA); South Carolina Department of Parks, Recreation, and Tourism (SCPRT); South Carolina State Museum; U.S. Department of the Interior, Fish and Wildlife Service (US FWS) Pinckney Island National Wildlife Refuge and Santee National Wildlife Refuge; University of North Carolina at Chapel Hill, Research Laboratories of Archaeology; and Yale Peabody Museum, hereafter the Collaborating Museums, have completed an inventory of human remains and associated funerary objects and have determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after June 16, 2025.

ADDRESSES: Nina Schreiner, South Carolina Institute of Archaeology and Anthropology, College of Arts and Sciences, University of South Carolina, 1321 Pendleton Street, Columbia, SC 29208, telephone (803) 576-6583, email: schreinn@email.sc.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Collaborating Museums, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

South Carolina Region 1 (Northeast Counties)

Clarendon County

Human remains representing, at least one individual have been identified. No associated funerary objects are present. The individual was removed from site 38CR1, Santee Mound/Fort Watson, Clarendon County, SC, in 1963 by Joffre Coe and Bennie Keel of the University of North Carolina-Chapel Hill. The individual may be associated with the Pee Dee phase (ca. 1000–1500 CE) occupation of the site. This holding is in the possession or control of the US FWS Santee National Wildlife Refuge.

Human remains representing, at least, four individuals have been identified. The five associated funerary objects are one lot consisting of ceramic objects and one lot consisting of lithic objects, and

three funerary urns. One individual was removed from site 38CR19/40, Persanti Island, Clarendon County, SC, in 1967 by Robert Shannon Jennings and released to SCIAA in 2010. A second individual was removed from site 38CR19/40, Persanti Island, in 1994 by an unknown person who released them to the Clarendon County Sheriff's Department. The Clarendon County Sheriff's Department released the individual to SCIAA in 1994. Two individuals and associated funerary objects were removed from site 38CR80, Persanti Island, in 1979 by Gerral L. Thomas who transferred them to SCIAA in 1982. Three funerary urns were removed from either 38CR19/40 or 38CR80, Persanti Island, in the 1970s by Tony Harper and donated to the Laurens County Museum in 2020 by the Tony Harper Family. The associated funerary objects from the Tony Harper collection were transferred to SCIAA in 2024 to facilitate repatriation. These holdings are in the possession or control of SCIAA.

The one associated funerary object is one funerary urn with lid dated 1400–1500 CE. The associated funerary object was collected from an island in Lake Marion, SC, by Robert Lamar Adams in September 1966 and donated to the South Carolina State Museum in April 1988. This holding is in the possession or control of the South Carolina State Museum.

Darlington County

Human remains representing, at least, 10 individuals have been identified. The four associated funerary objects are one lot ceramic material, one lot lithic material, one lot faunal material, one lot botanical material. One individual and associated funerary objects were removed from 38DA66, Dunlap, Darlington County, SC, by Tommy Charles of SCIAA in 1984, with the permission of the property owner, C.K. Dunlap. Nine individuals and associated funerary objects were removed from site 38DA66, Dunlap, by Chester DePratter of SCIAA in 1984 and 1985, with permission of the property owner, C.K. Dunlap. The site dates 700–1300 CE. This holding is in the possession or control of SCIAA.

Georgetown County

Human remains representing, at least, one individual have been identified. The one associated funerary object is one lot consisting of glass beads. The individual and associated funerary object were removed from an unknown location near Murrells Inlet Bluff in Georgetown County, SC, by Arthur C. McCall at an unknown date. McCall

released the individual and associated funerary objects to the Greenville Museum, who transferred them to SCIAA in 1975. Associated funerary objects date to 1680–1750 CE. This holding is in the possession or control of SCIAA.

Human remains representing, at least, five individuals have been identified. There is one lot of associated funerary objects. The individuals and associated funerary objects were removed from site 38GE7, Wachesaw Landing, Georgetown County, SC, by Dr. Patricia A. Criddlebaugh of SCIAA in 1985 during pre-development excavations sponsored by Edward D. Stone Jr. and Associates for Wachesaw Plantation Limited Partnership. The site dates to 1000–1700 CE. This holding is in the possession or control of SCIAA.

Human remains representing, at minimum, five individuals were removed from Wachesaw Landing Site (38GE7), Georgetown County, SC. Archaeologists affiliated with the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology conducted excavations at the site in March 1982. No burials were identified, but one humerus and two skull fragments were found in three different excavation units. These bones were likely from burials disturbed by plowing and other activities at the Wachesaw Plantation homesite. In addition, University of North Carolina at Chapel Hill, Research Laboratories of Archaeology is in possession of the skulls of two additional individuals from Wachesaw Landing that lack specific provenience information. Complicated-stamped pottery and glass beads recovered during excavations suggest site use between A.D. 1000 and A.D. 1700. No known individuals were identified. No associated funerary objects are present. This holding is in the possession or control of the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology.

Human remains representing, at least, 15 individuals have been identified. There is one lot of associated funerary objects. One individual was removed from site 38GE46, Minim Island, Georgetown County, SC, by Parker Lumpkin at an unknown date and transferred to SCIAA ca. 1974. One individual was removed from the same site by Travis L. Bianchi and Robert C. Asreen, Jr. of SCIAA in 1974. Five individuals were removed from the same site by Carolina Archaeological Services in 1982 with permission of landowner C.E. Graham Reeves during excavations contracted by the U.S. Army Corps of Engineers. One

individual was removed from the same site by Carolina Archaeological Services in 1987 with permission of landowner C.E. Graham Reeves and transferred to SCIAA in 1990. Seven individuals were removed from the same site by Brockington and Associates, Inc. in 1988 with permission of the same property owner during excavations contracted by the U.S. Army Corps of Engineers and transferred to SCIAA in 1989. The shell midden component of the site from which individuals were removed dates 600–250 BCE. This holding is in the possession or control of SCIAA.

In 1956, human remains representing, at minimum, one individual, were removed from Dudley Site (38GE687), Georgetown County, SC. William Haag conducted surface collections at the site as part of a 1956 south Atlantic coastal survey sponsored by the National Park Service. Two human bone fragments were recovered from the ground surface. Artifacts collected consist of one stone end scraper, one kaolin pipestem, and 35 pottery sherds. The artifacts and individual's remains were transferred from Louisiana State University to University of North Carolina at Chapel Hill, Research Laboratories of Archaeology in 1994. Haag's analysis notes mention the following types of surface decoration on the pottery: fabric impressed, check-stamped, linear check-stamped, complicated stamped, simple stamped, and smoothed (plain). This information suggests the site was used between A.D. 1000 and A.D. 1500. No known individual was identified. No associated funerary objects are present. This holding is in the possession or control of the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology.

Horry County

Human remains representing, at least, 68 individuals have been identified. There is one lot of associated funerary objects. Twenty-six individuals were removed from site 38HR36, Holliday, Horry County, SC, by Dr. Reinhold Engelmayer of Coastal Carolina College in 1979 with permission of landowners Joseph W. Holliday and John M. Holliday. They were subsequently transferred to SCIAA in 1983. Forty-two individuals were removed from the same site by Dr. Ted A. Rathbun of the Department of Anthropology, University of South Carolina, Columbia in 1984 and 1985. They were transferred to SCIAA at an unknown date. The site dates 1000–1300 CE. This holding is in the possession or control of SCIAA.

Lee County

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. In 1973, John Morrow recovered the individual from a surface collection at site 38LE11 Lee State Park, Lee County, SC and brought them to SCIAA. This holding is in the possession or control of the SCPRT.

Marlboro County

In 1966, human remains representing, at minimum, one individual and one funerary object were removed from Powe #4 Site (38ML405), Marlboro County, SC. The site was recorded by University of North Carolina at Chapel Hill, Research Laboratories of Archaeology archaeologist Bennie Keel following the disturbance of a burial urn. The burial urn was encountered by a bulldozer operator during the construction of a dike along the Pee Dee River. Keel collected seven human bone fragments from the area of the disturbed urn. The complicated-stamped urn body and plain smoothed urn cover were collected as 213 pottery sherds; the urn cover has been partly reconstructed. Keel also collected two stone tools, two trade pipe fragments, one deer bone, four metal fragments, one daub fragment, and additional pottery sherds. The site was likely used between A.D. 1000 and A.D. 1500. No known individual was identified. This holding is in the possession or control of University of North Carolina at Chapel Hill, Research Laboratories of Archaeology.

Human remains representing, at minimum, three individuals and one associated funerary object were removed from Wallace Site (38ML201), Marlboro County, SC. In 1967, archaeologists affiliated with University of North Carolina at Chapel Hill, Research Laboratories of Archaeology, collected 10 fragments of human bone from the ground surface, along with stone tools, pottery, a pipe fragment, brick, and glass. In May 1981, graduate students Homes Hogue and Michael Trinkley returned to the site and learned it was to be plowed with a subsoiler, possibly for the first time, and undertook a site survey. On May 29, 1981 teeth of one individual were identified in a shovel test. The shovel test was stopped, and efforts were made to determine the extent of the burial at the base of the plow zone. On June 5, 1981, the individual was excavated given the expectation the burial would be destroyed by subsoil plowing. A stone celt had been placed with the individual. The remains of a child were

also identified and excavated at this time. The site was likely used between A.D. 1000 and A.D. 1500. No known individual was identified. This holding is in the possession or control of the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology.

Sumter County

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. Prior to 1890, George I. Spencer collected the remains from the bank of the Wateree River in an unknown location in Sumter County. The remains were transferred to William H. Brewer, Professor at Yale's Sheffield Scientific School, and donated to the Yale Peabody Museum in April 1890.

South Carolina Region 2 (Central Counties)

Richland County

Human remains representing, at least one individual have been identified. Two lots of funerary objects are present. From 1958 to 1961, William Ellis Edwards of SCIAA removed the individual and one lot of funerary objects from site 38RD4 Green Hill Mound in Richland County, SC. In 1969, Leland G. Ferguson, a graduate student at University of North Carolina at Chapel Hill, Research Laboratories of Archaeology, removed one lot of funerary objects from the same site. They were brought to SCIAA at an unknown date. This holding is in the possession or control of SCIAA.

South Carolina Region 3 (Southeast Counties)

Allendale County

Human remains representing, at least, seven individuals have been identified. The five associated funerary objects are one urn, one lot consisting of lithic objects, one lot consisting of ceramic objects, one lot consisting of faunal fragments, and one lot consisting of unidentified materials. In the 1970s, David Topper removed six individuals and associated funerary objects from site 38AL2 "Cox/Fennel Hill" in Allendale County, SC and brought them to SCIAA. Between 1964 and 1968, Fred C. Cook removed one individual and associated funerary objects from the same site. Ceramic objects indicate the latter individual lived between 1200 and 1400 CE. Cook brought them to the Savannah River Archaeological Research Program (SRARP) of SCIAA at an unknown date. SRARP transferred them to Georgia Southern University in 2015 and 2018; GSU transferred them back to SCIAA to

facilitate repatriation in 2024. These holdings are in the possession or control of SCIAA.

Human remains representing, at least, two individuals have been identified. The three associated funerary objects are one lot consisting of botanical material, one lot consisting of ceramic material, and one lot consisting of lithic material. In 2003, Keith Stephenson removed the individuals and funerary object from site 38AL11 “Lawton Mounds” in Allendale County, SC during an excavation for dissertation research at the University of Kentucky. The individuals and funerary object were brought to SCIAA in 2024 to facilitate repatriation. Lawton dates 1250–1350 CE. This holding is in the possession or control of SCIAA.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. In 1985, Dr. Albert Goodyear of SCIAA removed the individual from site 38AL23 “Topper” in Allendale County, SC with permission of landowner Sandoz Chemical Corporation. The individual was interred in an urn, which was retained in the possession or control of the landowner. The urn type indicates a date of 1350–1450 CE. This holding is in the possession or control of SCIAA.

Beaufort County

Human remains representing, at least, nine individuals have been identified. The one associated funerary object is one lot consisting of ceramic objects. In 1969, James L. Michie and William Fischer removed two individuals and the one associated funerary object from site 38BU9 “Daw’s Island” in Beaufort County, SC and brought them to SCIAA that same year. In 1969, E. Thomas Hemmings of SCIAA removed one individual and brought them to SCIAA. In 1974, James L. Michie removed one individual and brought them to SCIAA at an unknown date. James L. Michie removed one individual and brought them to SCIAA at an unknown date. Richard Moody and Stanley Bond removed four individuals at an unknown date and brought them to SCIAA in 1978. The site dates to 3500–4000 BP. This holding is in the possession or control of SCIAA.

Human remains representing, at least, 16 individuals have been identified. The four associated funerary objects are one lot consisting of ceramic objects, one lot consisting of lithic objects, one lot consisting of botanical material, and one lot consisting of faunal material. In 1982, Mark Brooks of SCIAA removed the individuals and associated funerary objects from site 38BU19 “Callawassie

Island Burial Mound” with the permission of landowner Three Fountainview Corporation of Hilton Head Island, South Carolina and brought them to SCIAA. The site dates to 1000–1500 CE. This holding is in the possession or control of SCIAA.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. In 1978–1979, SC Department of Transportation archaeologist Michael Trinkley removed the individual from site 38BU67, Pinckney Island, during a Section 106 compliance project on the Pinckney Island National Wildlife Refuge and brought them to the University of North Carolina-Chapel Hill. This holding is in the possession or control of the US FWS Pinckney Island National Wildlife Refuge.

Human remains representing, at least, seven individuals have been identified. The two associated funerary objects are one lot consisting of ceramic material and one lot consisting of faunal material. A citizen removed one individual and the two funerary objects from a beach washout at site 38BU114 “Barrow’s Beach/Daw’s Island” and brought them to SCIAA around 1992. Six individuals were brought to SCIAA at an unknown time by an unknown source. The site dates 3500–4000 BP. This holding is in the possession or control of SCIAA.

Berkeley County

In 1979, human remains representing, at minimum, one individual were removed from Moultrie #1 Site (38BK22), Berkeley County, SC. Michael Trinkley, a graduate student at the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology, recorded the site and made surface collections. Trinkley noted several cremations eroding along the beach and collected the remains of one individual. Eroded materials were evident at the site due to its location on the shore of Lake Moultrie, which experiences low water levels in the winter. Trinkley also collected 171 pottery sherds, two stone tools, lithic debitage, and an animal bone. Thom’s Creek and Cape Fear pottery found at the site suggests it was used between 2000 BC and A.D. 1000. No known individual was identified. No associated funerary objects are present. This holding is in the possession or control of the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology.

Charleston County

Human remains representing, at least, 42 individuals have been identified. The

251 associated funerary objects are one ceramic vessel, nine ceramic sherds, 10 faunal elements, one stone object, five lots consisting of mica fragments, seven quartz pebbles, 217 shell beads, and one stone discoidal. In 1969, Stanley A. South of SCIAA removed the individuals and funerary objects from site 38CH1, Charles Towne Landing, during archaeological excavations prior to facility construction for Charles Towne Landing State Historic Site. Two calibrated radiocarbon dates obtained from the site provided a range of 1276–1387 CE and 1476–1789 CE. This holding is in the possession or control of the SCPRT.

In 1976 and 1979, human remains representing, at minimum, three individuals were removed from Lighthouse Point Site (38CH12), a shell ring in Charleston County, SC. The University of North Carolina at Chapel Hill, Research Laboratories of Archaeology conducted excavations supervised by graduate student Michael Trinkley under the direction of Joffre Coe. The excavations were undertaken in response to planned development. The shell ring at 38CH12 had been partly bulldozed prior to excavations, but lower portions were found to be intact. In 1976, one bone fragment was found on the ground surface. In 1979, another bone fragment was found on the ground surface. During curation, two additional bones were identified from a general context excavated in 1979 (Level 2 of Sq. 110R150). A total of 39 pit features were identified at Light House Point, none of which were interments. Thom’s Creek pottery found at the site suggests the shell ring was constructed during the Late Archaic Period (3000 BC–1000 BC), although early colonial-period (A.D. 1600–A.D. 1700) artifacts were also found (kaolin pipe stems, gunflints, bottle glass) in both general contexts and in some pit features. No known individuals were identified. No associated funerary objects are present. This holding is in the possession or control of the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. In 1990, the individual was recovered from site number 38CH1210 by the Mt. Pleasant Police Department during house construction and released to SCIAA from the Charleston County Medical Examiner’s Office. This holding is in the possession or control of SCIAA.

In 1976, human remains representing, at minimum, one individual were removed from the Venning Site (38CH2809), Charleston County, SC.

The University of North Carolina at Chapel Hill, Research Laboratories of Archaeology conducted surface collections supervised by Michael Trinkley. A single human bone fragment was found on the ground surface. Additional surface collections included 158 pottery sherds, primarily Thom's Creek/Stallings series, suggesting use of the area during the Late Archaic Period (3000 BC–1000 BC). No known individual was identified. No associated funerary objects are present. This holding is in the possession or control of University of North Carolina at Chapel Hill, Research Laboratories of Archaeology.

Human remains representing, at least, five individuals have been identified. No associated funerary objects are present. In the mid-late 1990s, Robert Morgan removed the individuals from a burial in a housing development on Awendaw Landing that had been disturbed by road construction. They were brought to SCIAA in 2024 for repatriation. This holding is in the possession or control of SCIAA.

Colleton County

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. In 1993, Frank and Theresa Morning of the Mid-State Geological Research Team recovered one individual from a disturbed burial eroding from the shoreline at site 38CN200 Edisto Beach State Park and brought them to SCIAA. In 1994, Raymond Gay recovered one individual from a disturbed burial eroding from the shoreline at Edisto Beach and brought them to SCIAA. This holding is in the possession or control of SCPRT.

Hampton County

Human remains representing, at least, 11 individuals have been identified. One lot of associated funerary objects is present. In 1971, Thomas M. Ryan of SCIAA recovered one individual from a disturbed burial from site 38HA2 "Stokes Bluff Landing" with permission from landowners South Carolina Wildlife and Marine Resources Department (SCWMRD). In 1994, Christopher Judge of the South Carolina Department of Natural Resources Heritage Trust Program and State Archaeologist Jonathan Leader of SCIAA recovered ten individuals from a disturbed burial with the permission of SCWMRD and brought them to SCIAA. The site dates to 3000 BCE to 1520 CE. This holding is in the possession or control of SCIAA.

Human remains representing, at least, 26 individuals have been identified.

One lot of associated funerary objects is present. In 1991 and 1992, Chester B. DePratter of SCIAA recovered 26 individuals and the one lot of associated funerary objects from site 38HA148 "Ware Creek Ridge" with permission from property owner Robert Winthrop II for Groton Land Company after the burials were disturbed by looting. Associated funerary objects indicate a site date of 1300–1425 CE. This holding is in the possession or control of SCIAA.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The Collaborating Museums have determined that:

- The human remains described in this notice represent the physical remains of 252 individuals of Native American ancestry.
- The 286 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described as "South Carolina Region 1 (Northeast Counties)" in this notice and the Catawba Indian Nation.
- There is a connection between the human remains and associated funerary objects described as "South Carolina Region 2 (Central Counties)" in this notice and the Catawba Indian Nation; Cherokee Nation; Eastern Band of Cherokee Indians; The Muscogee (Creek) Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- There is a connection between the human remains and associated funerary objects described as "South Carolina Region 3 (Southeast Counties)" in this notice and the Catawba Indian Nation; Poarch Band of Creek Indians; Shawnee Tribe; and The Muscogee (Creek) Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the Collaborating Museums must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Collaborating Museums are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025–08780 Filed 5–15–25; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0040153; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: David A. Fredrickson Archaeological Collections Facility, Sonoma State University, Rohnert Park, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Sonoma State University has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after June 16, 2025.

ADDRESSES: Doshia Dodd, Sonoma State University, 1801 East Cotati Avenue, Rohnert Park, CA 94928, telephone (530) 514–8472, email doshia.dodd@sonoma.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the

National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Sonoma State University, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, the lot of 200 associated funerary objects were taken from Gaddy Ranch in Kelseyville, CA. The funerary objects are glass and shells beads and flaked stone tools and debitage. The lots have been housed at Sonoma State University since 1973 under Accession number 73–31.

Based on the information available, the lot of 79 associated funerary objects were taken from CA–LAK–382 in June 1974 and CA–LAK–1181 in December 1983 by SSU student Chuck Anderson and are not a part of a formal CRM survey. The associated funerary objects are Flaked stone tools and debitage; Modified shell; Shell beads; Unmodified shell. The associated funerary objects have been housed at Sonoma State University since 1984 under Accession number 84–01.

Based on records concerning the associated funerary objects and the institution in which they are housed, there is no evidence of the associated funerary objects being treated with hazardous substances.

Cultural Affiliation

Based on the information available and the results of consultation cultural affiliation is clearly identified by the information available about the associated funerary objects described in this notice and the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California.

Determinations

The Sonoma State University has determined that:

- The 279 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a reasonable connection between the associated funerary objects described in this notice and the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the associated funerary objects in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the Sonoma State University must determine the most appropriate requestor prior to repatriation.

Requests for joint repatriation of the associated funerary objects are considered a single request and not competing requests. The Sonoma State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 6, 2025

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025–08779 Filed 5–15–25; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS–WASO–NAGPRA–NPS0040152;
PPWOCRADN0–PCU00RP14.R50000]**

Notice of Intended Disposition: U.S. Department of the Interior, National Park Service, Rock Creek Park, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Rock Creek Park (ROCR) intends to carry out the disposition of human remains and associated funerary objects removed from Federal or Tribal lands to the lineal descendants, Indian Tribe, or Native Hawaiian organization

with priority for disposition in this notice.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after June 16, 2025. If no claim for disposition is received by May 18, 2026, the human remains and associated funerary objects in this notice will become unclaimed human remains and associated funerary objects.

ADDRESSES: Brian Joyner, Superintendent, Rock Creek Park, 3545 Williamsburg Lane NW, Washington, DC 20008, telephone (202) 895–6002, email brian_joyner@nps.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent ROCR, and additional information on the human remains or cultural items in this notice, including the results of consultation, can be found in the related records.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual have been reasonably identified from the Ramp 3 site (51NW117). The 72 associated funerary objects include fragments of at least 14 great white shark's teeth; one sandstone phallus; two stone pendants; one elk antler comb with 83 fragments counted as one lot; one stone knife blade; one wood bead; one quartzite hammerstone; five fragmented antler disks; and some very small textile fragments counted as one lot. In addition to the artifacts, 33 small, burned fragments of mammal bone and 12 small, burned fragments of bird bone were found. Between 1996 and 1997, an archeological contract firm made an unanticipated archeological discovery during a highway improvement project on National Park Service land administered by Rock Creek Park in Washington, DC. During analysis of the animal fauna recovered from the site, two human bones were found and sent to a forensic specialist for identification. It is believed that the individual and some of the organic artifacts recovered at the site may have been cremated elsewhere before being re-interred in this location. The human remains and funerary objects are stored at the NPS Museum Resource Center (MRCE) in the National Capital Region.

Determinations

ROCR has determined that:

- The human remains described in this notice represent the physical

remains of one individual of Native American ancestry.

- The 72 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- The Chickahominy Indian Tribe; Chickahominy Indian Tribe—Eastern Division; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Nansemond Indian Nation; Pamunkey Indian Tribe; Rappahannock Tribe, Inc.; Seneca Nation of Indians; and the Upper Mattaponi Tribe have priority for disposition of the human remains and associated funerary objects described in this notice.

Claims for Disposition

Written claims for disposition of the human remains and associated funerary objects in this notice must be sent to the appropriate official identified in this notice under **ADDRESSES**. If no claim for disposition is received by May 18, 2026, the human remains and associated funerary objects in this notice will become unclaimed human remains and associated funerary objects.

Claims for disposition may be submitted by:

1. Any lineal descendant, Indian Tribe, or Native Hawaiian organization identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that they have priority for disposition.

Disposition of the human remains and associated funerary objects in this notice may occur on or after June 16, 2025. If competing claims for disposition are received, ROCR must determine the most appropriate claimant prior to disposition. Requests for joint disposition of the human remains or cultural items are considered a single request and not competing requests. ROCR is responsible for sending a copy of this notice to the lineal descendants, Indian Tribes, and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3002, and the implementing regulations, 43 CFR 10.7.

Dated: May 8, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025–08778 Filed 5–15–25; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0040148; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: Ralph T Coe Center for the Arts, Santa Fe, NM

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Ralph T Coe Center for the Arts intends to repatriate certain cultural items that meet the definition of unassociated funerary objects, sacred objects, and/or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after June 16, 2025.

ADDRESSES: Rose Burns, Ralph T Coe Center for the Arts, 1590B Pacheco, Santa Fe, NM 87505, telephone (505) 983–6372, email rburns@coeartscenter.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Ralph T Coe Center for the Arts, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one sacred object/object of cultural patrimony is a birchbark scroll (NA0274 a).

The Ralph T Coe Center for the Arts acquired this item as a gift from Ralph T Coe in 2011. Ralph T Coe acquired NA0274 a in 1974 from Candelaria Trading Post on West San Francisco Street, in Santa Fe, NM. His notes state, "I found out that Monroe P. Killy, the previous owner, had obtained them from Fred K. Blessing." The Ralph T Coe Center for the Arts has no further provenance information on this object.

There are no known hazardous substances used to treat NA0274.

Determinations

The Ralph T Coe Center for the Arts has determined that:

- The one sacred object/object of cultural patrimony described in this notice are, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).

- There is a reasonable connection between the cultural item described in this notice and the Little Shell Tribe of Chippewa Indians of Montana.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the Ralph T Coe Center for the Arts must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The Ralph T Coe Center for the Arts is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025–08774 Filed 5–15–25; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR**National Park Service****[NPS–WASO–NAGPRA–NPS0040147;
PPWOCRADN0–PCU00RP14.R50000]****Notice of Intended Repatriation: Ralph
T Coe Center for the Arts, Santa Fe,
NM****AGENCY:** National Park Service, Interior.**ACTION:** Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Ralph T Coe Center for the Arts intends to repatriate certain cultural items that meet the definition of unassociated funerary objects, sacred objects, and/or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after June 16, 2025.

ADDRESSES: Rose Burns, Ralph T Coe Center for the Arts, 1590B Pacheco St., Santa Fe, NM 87505, telephone (505) 983–6372, email: rburns@coeartscenter.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Ralph T Coe Center for the Arts, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of seven cultural items have been requested for repatriation. The six sacred objects are a pipe bowl (NA1139), two Mide panels (NA0276 and NA1424), two charm bags (NA0234 ab), and an otter bag (NA0466). The one sacred object/object of cultural patrimony is a birchbark scroll (NA0274 b). Each item qualifies as a sacred object, as each plays a crucial role in Midewin ceremonies; NA0274 b meets the definition of an object of cultural patrimony in addition to being a sacred object.

All items listed were gifted to the Ralph T Coe Center for the Arts in 2011 by Ralph T Coe.

Ralph T Coe purchased NA1139 on June 2, 2005, from Toby Herbst, Galisteo, NM. Documentation in the Coe Center's database indicates that NA1139

was previously part of the Herbert G. Wellington Collection. NA1139 is published in *Pleasing the Spirits: A Catalogue of a Collection of American Indian Art* by Douglas Ewing. This object is likely from the Great Lakes region. The Ralph T Coe Center for the Arts has no further provenance information on this object.

Ralph T Coe purchased NA0276 on January 15, 1989 from James Economos. This object is likely from the Great Lakes region. The Ralph T Coe Center for the Arts has no further provenance information on this object.

NA1424 is likely from the Great Lakes region. The Ralph T Coe Center for the Arts has no further provenance information on this object.

Ralph T Coe acquired NA0234 ab in the mid-1970s, the source of this object is not documented in the Ralph T Coe Center for the Arts records. This object is likely from the Great Lakes region. The Ralph T Coe Center for the Arts has no further provenance information on this item.

Ralph T Coe purchased NA0466 from Parson's Trading Post, Wisconsin Dells, WI, in the late 1980's. This object is likely from the Great Lakes region. The Ralph T Coe Center for the Arts has no further provenance information on this item.

Ralph T Coe purchased NA0274 b in 1974 from Candelaria Trading Post on West San Francisco St., in Santa Fe, NM. As documented in our database he wrote that, "I found out that Monroe P. Killy, the previous owner, had obtained them from Fred K. Blessing." This object is likely from the Great Lakes region. The Ralph T Coe Center for the Arts has no further provenance information on this item.

There are no known hazardous substances used to treat NA1139, NA0276, NA1424, NA0234 ab, NA0466 or NA0274 b.

Determinations

The Ralph T Coe Center for the Arts has determined that:

- The six sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- The one sacred object/object of cultural patrimony described in this notice is, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects

needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).

- There is a reasonable connection between the cultural items described in this notice and the Minnesota Chippewa Tribe, Minnesota (Fond du Lac Band).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the Ralph T Coe Center for the Arts must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Ralph T Coe Center for the Arts is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025–08773 Filed 5–15–25; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR**National Park Service****[NPS–WASO–NAGPRA–NPS0040143;
PPWOCRADN0–PCU00RP14.R50000]****Notice of Inventory Completion: U.S.
Department of the Interior, Bureau of
Land Management, Arizona State
Office, Phoenix, AZ****AGENCY:** National Park Service, Interior.**ACTION:** Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Arizona State Office has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after June 16, 2025.

ADDRESSES: Raymond Suazo, Arizona State Director, BLM Arizona State Office, One North Central Ave., Suite 800, Phoenix, AZ 85004-9412, telephone (602) 417-9200, email lm_az_asoweb@blm.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the BLM Arizona State and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, nine individuals have been identified. The 39 associated funerary objects are flaked stone, pollen samples, flotation samples, jars, bowls, and sherds. The individuals were removed from AZ CC:7:70(ASM) and AZ CC:7:72(ASM) at Timber Draw Site located in Graham County, AZ. The individuals and associated funerary objects are housed at the Arizona State Museum.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition historic of the human remains and associated funerary objects described in this notice.

Determinations

The BLM Arizona State Office has determined that:

- The human remains described in this notice represent the physical remains of nine individuals of Native American ancestry.
- The 39 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of

death or later as part of the death rite or ceremony.

- There is a connection between the human remains and associated funerary objects described in this notice and the Ak-Chin Indian Community; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the BLM Arizona State Office must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The BLM Arizona State Office is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-08769 Filed 5-15-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS-WASO-NAGPRA-NPS0040150;
PPWOCRADN0-PCU00RP14.R50000]**

**Notice of Inventory Completion:
Peabody Museum of Archaeology and
Ethnology, Harvard University,
Cambridge, MA**

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Peabody Museum of Archaeology and Ethnology, Harvard University (PMAE) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after June 16, 2025.

ADDRESSES: Deanna Byrd, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 384-0672, email deannabyrd@fas.harvard.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the PMAE, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, three individuals have been identified as removed from the Rabbit Mount site (GR-1; 38AL15) on Groton Plantation in Allendale and Hampton Counties, SC, by James B. Stoltman and Stephen Williams as part of a PMAE expedition in 1964. The one associated funerary object is one lot of ceramic sherds and fragments, lithics, worked stone items, faunal remains, charcoal, and other natural materials.

Human remains representing, at least, one individual, have been identified as removed from the Clear Mount site (GR-2; 38AL16) on Groton Plantation in Allendale and Hampton Counties, SC, by James B. Stoltman and Stephen Williams as part of a PMAE expedition in 1964. The one associated funerary object is one lot of ceramic sherds, lithics, worked stone items, worked bone and shell items, ceramic items, and nails.

Human remains representing, at least one individual have been identified as removed from an unnamed site on the "Bank of the Broad River" in Richland County, SC, in 1883 by Reverend John Hawkins and donated to the PMAE the

same year. The one associated funerary object is one lot of bone beads.

Two associated funerary objects were identified as removed from a mound on Callawassie Island (38BU19) in Beaufort County, SC, by C.B. Moore in 1897 and donated to the PMAE the same year. Human remains from this site are reported by the South Carolina Institute of Archaeology and Anthropology (SCIAA) in a separate notice. The two associated funerary objects are two lots of faunal remains.

Cultural Affiliation

Based on the information available and the results of consultation cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The PMAE has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- The five objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice from Allendale, Beaufort, and Hampton Counties, SC, and the Catawba Indian Nation; Poarch Band of Creek Indians; Shawnee Tribe; and The Muscogee (Creek) Nation.
- There is a connection between the human remains and associated funerary objects described in this notice from Richland County, SC, and the Catawba Indian Nation; Cherokee Nation; Eastern Band of Cherokee Indians; The Muscogee (Creek) Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the PMAE must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The PMAE is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-08776 Filed 5-15-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0040155; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: Institute for American Indian Studies, Washington, CT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Institute for American Indian Studies intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after June 16, 2025.

ADDRESSES: Meryl Shriver-Rice, Institute for American Indian Studies, 38 Curtis Road, Washington, CT 06793, telephone (203) 868-0518, email mshriver-rice@iaismuseum.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Institute for American Indian Studies, and additional information on the determinations in this notice, including the results of consultation, can be found

in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of three cultural items have been requested for repatriation. The three objects of cultural patrimony are False Face masks. Masks were donated by the Winders family (Oneida) for an exhibition to showcase how masks were constructed. This connection was made through Alephena Logan (Onondaga), who worked closely with Ned Swigart, the founder of the museum. It was noted by Ned that these masks were potentially used in ceremony.

Determinations

The Institute for American Indian Studies has determined that:

- The three objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Oneida Indian Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after June 16, 2025. If competing requests for repatriation are received, the Institute for American Indian Studies must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Institute for American Indian Studies is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25

U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 6, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025–08781 Filed 5–15–25; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR03042000, 25XR0680A1,
RX.18786000.1501100; OMB Control
Number 1006–0014]

Agency Information Collection Activities; Lower Colorado River Well Inventory

AGENCY: Bureau of Reclamation,
Interior.

ACTION: Notice of information collection;
request for comments.

SUMMARY: In accordance with the
Paperwork Reduction Act of 1995, we,
the Bureau of Reclamation, are
proposing to renew an information
collection.

DATES: Interested persons are invited to
submit comments. To be considered,
your comments must be received on or
before July 15, 2025.

ADDRESSES: Send your comments on
this information collection request (ICR)
by mail to Kerim Dickson, Water
Accounting and Verification Group
Team Lead, LC–4200, Bureau of
Reclamation, Lower Colorado Basin
Regional Office, P.O. Box 61470,
Boulder City, Nevada 89006–1470; or by
email to kdickson@usbr.gov. Please
reference Office of Management and
Budget (OMB) Control Number 1006–
0014 in the subject line of your
comments.

FOR FURTHER INFORMATION CONTACT:
Kerim Dickson by email at kdickson@usbr.gov, or by telephone at (702) 293–
8574. Individuals in the United States
who are deaf, deafblind, hard of hearing,
or have a speech disability may dial 711
(TTY, TDD, or TeleBraille) to access
telecommunications relay services.
Individuals outside the United States
should use the relay services offered
within their country to make
international calls to the point-of-
contact in the United States.

SUPPLEMENTARY INFORMATION: In
accordance with the Paperwork
Reduction Act of 1995 (PRA, 44 U.S.C.
3501 *et seq.*) and 5 CFR 1320.8(d)(1), all
information collections require approval
under the PRA. We may not conduct or
sponsor and you are not required to

respond to a collection of information
unless it displays a currently valid OMB
control number.

As part of our continuing effort to
reduce paperwork and respondent
burdens, we invite the public and other
Federal agencies to comment on new,
proposed, revised, and continuing
collections of information. This helps us
assess the impact of our information
collection requirements and minimize
the public's reporting burden. It also
helps the public understand our
information collection requirements and
provide the requested data in the
desired format.

We are especially interested in public
comment addressing the following:

- (1) Whether or not the collection of
information is necessary for the proper
performance of the functions of the
agency, including whether or not the
information will have practical utility;
- (2) The accuracy of our estimate of the
burden for this collection of
information, including the validity of
the methodology and assumptions used;
- (3) Ways to enhance the quality,
utility, and clarity of the information to
be collected; and
- (4) How might the agency minimize
the burden of the collection of
information on those who are to
respond, including through the use of
appropriate automated, electronic,
mechanical, or other technological
collection techniques or other forms of
information technology, *e.g.*, permitting
electronic submission of response.

Comments that you submit in
response to this notice are a matter of
public record. We will include or
summarize each comment in our request
to OMB to approve this ICR. Before
including your address, phone number,
email address, or other personal
identifying information in your
comment, you should be aware that
your entire comment—including your
personal identifying information—may
be made publicly available at any time.
While you can ask us in your comment
to withhold your personal identifying
information from public review, we
cannot guarantee that we will be able to
do so.

Abstract. All diversion of mainstream
Colorado River water must be in
accordance with the Colorado River
water entitlement pursuant to the
Boulder Canyon Project Act (43 U.S.C.
617; Pub. L. 70–642, 45 Stat. 1057). The
Consolidated Decree of the United
States Supreme Court in *Arizona v.
California*, 547 U.S. 150 (2006) requires
the Secretary of the Interior to account
for all diversions of mainstream
Colorado River water along the lower
Colorado River, including water drawn

from the mainstream by underground
pumping. To meet the water entitlement
and accounting obligations, an
inventory of wells and river pumps is
required along the lower Colorado River
that gathers specific information
concerning these wells, such as water
level, pumping volume, and permit
number.

Title of Collection: Lower Colorado
River Well Inventory.

OMB Control Number: 1006–0014.

Form Numbers: Form LC–25.

Type of Review: Extension of a
currently approved collection.

Respondents/Affected Public: Well
and river-pump owners and operators
along the lower Colorado River in
Arizona, California, and Nevada. Each
diverter (including well pumpers) must
be identified and their diversion
locations and water use determined.

*Total Estimated Number of Annual
Respondents:* 50.

*Total Estimated Number of Annual
Responses:* 50.

*Estimated Completion Time per
Respondent:* An average of 20 minutes
is required to interview individual well
and river-pump owners or operators.

*Total Estimated Number of Annual
Burden Hours:* 17 hours.

Respondent's Obligation: Required to
obtain a benefit.

Frequency of Collection: These data
are collected only once for each well or
river-pump owner or operator as long as
changes in water use, or other changes
that would impact contractual or
administrative requirements, are not
made. A respondent may request that
the data for its well or river pump be
updated after the initial inventory.

*Total Estimated Annual Nonhour
Burden Cost:* None.

An agency may not conduct or
sponsor and a person is not required to
respond to a collection of information
unless it displays a currently valid OMB
control number.

The authority for this action is the
Paperwork Reduction Act of 1995 (44
U.S.C. 3501 *et seq.*).

Christina Davis-Kernan,

*Acting Regional Director, Lower Colorado
Basin.*

[FR Doc. 2025–08702 Filed 5–15–25; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement**

[S1D1S SS08011000 SX064A000
256S180110; S2D2S SS08011000
SX064A000 25XS501520; OMB Control
Number 1029–0117]

**Submission to the Office of
Management and Budget for Review
and Approval; Permit Applications—
Minimum Requirements for Legal,
Financial, Compliance, and Related
Information**

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

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 15, 2025.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to William Frankel, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4745–MIB, Washington, DC 20240, or by email to wfrankel@osmre.gov. Please reference OMB Control Number 1029–0117 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT:

William Frankel by email at wfrankel@osmre.gov or phone at (202) 208–0121. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information

collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) is the collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This collection of information is authorized by section 507(b) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), as amended, 30 U.S.C. 1257(b), which provides that persons conducting coal mining activities submit to the regulatory authority all relevant information regarding ownership and control of the mining company, their compliance status and history, and authority to mine the property. This information is used to ensure all legal, financial and compliance requirements are satisfied prior to issuance or denial of a permit.

Title of Collection: Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information.

OMB Control Number: 1029–0117.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses, State and Tribal governments.

Total Estimated Number of Annual Respondents: 201.

Total Estimated Number of Annual Responses: 1,590.

Estimated Completion Time per Response: Varies 1 hour to 9 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 4,481.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: \$0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

William L. Frankel,

*Information Collection Clearance Officer,
Office of Surface Mining Reclamation and
Enforcement.*

[FR Doc. 2025–08754 Filed 5–15–25; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement**

[S1D1S SS08011000 SX064A000
256S180110; S2D2S SS08011000
SX064A000 25XS501520; OMB Control
Number 1029–0115]

**Submission to the Office of
Management and Budget for Review
and Approval; Requirements for
Permits and Permit Processing**

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

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 15, 2025.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to William Frankel, Office of Surface Mining Reclamation and Enforcement, 4547 Stewart Udall Building, Washington, DC 20240, or by email to wfrankel@osmre.gov. Please reference OMB Control Number 1029–0115 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact William Frankel by email wfrankel@osmre.gov or (202) 208–0121. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711

(TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) is the collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This collection of information is authorized by 30 CFR part 773, which implements various provisions of the Surface Mining Control and Reclamation Act of 1977 (Act), including sections 506, 507, 510, 513, and 514 (30 U.S.C. 1256, 1257, 1260, 1263, and 1264) by identifying general and specific information requirements for applicants to provide in the permitting process, and for

regulatory authorities to review permit applications, determine permit eligibility, and ascribe permit conditions. Part 773 also contains provisions governing provisionally issued permits, improvidently issued permits, and challenges of ownership or control listings and findings. This information collection also authorizes the collection of permit processing fees approved under OSMRE regulations.

Title of Collection: Requirements for Permits and Permit Processing.

OMB Control Number: 1029–0115.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses, State and Tribal governments.

Total Estimated Number of Annual Respondents: 950.

Total Estimated Number of Annual Responses: 4,198.

Estimated Completion Time per Response: Varies 1 hour to 32 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 46,982.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: \$83,400.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

William L. Frankel,

*Information Collection Clearance Officer,
Office of Surface Mining Reclamation and
Enforcement.*

[FR Doc. 2025–08735 Filed 5–15–25; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–759 and 731–TA–1740–1741 (Preliminary)]

Multifunctional Acrylate and Methacrylate Monomers and Oligomers From South Korea and Taiwan

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 there is a reasonable indication that an industry in the United States is materially injured by reason of imports of multifunctional acrylate and methacrylate monomers and oligomers (“MAMMOs”) from South Korea and Taiwan, provided for in subheadings 2916.12.5050, 2916.14.2050, 3824.99.2900, 3907.29.0000 and 3907.30.0000 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (“LTFV”) and imports of the subject merchandise from Taiwan that are alleged to be subsidized by the government of Taiwan.²

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in § 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (“Commerce”) of affirmative preliminary determinations in the investigations under §§ 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under §§ 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Any other party may file an entry of appearance for the final phase of the investigations after publication of the final phase notice of scheduling. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations. As provided in section 207.20 of the Commission's rules, the Director of the Office of Investigations will circulate draft questionnaires for the final phase of the investigations to parties to the investigations, placing copies on the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>), for comment.

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² 90 FR 17032 and 17044, April 23, 2025.

Background

On March 27, 2025, Arkema, Inc., King of Prussia, Pennsylvania filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of MAMMOs from Taiwan and LTFV imports of MAMMOs from South Korea and Taiwan. Accordingly, effective March 27, 2025, the Commission instituted countervailing duty investigation No. 701-TA-759 and antidumping duty investigation Nos. 731-TA-1740-1741 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference 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** of April 2, 2025 (90 FR 14475). The Commission conducted its conference on April 17, 2025. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on May 12, 2025. The views of the Commission are contained in USITC Publication 5625 (May 2025), entitled *Multifunctional Acrylate and Methacrylate Monomers and Oligomers from South Korea and Taiwan: Investigation Nos. 701-TA-759 and 731-TA-1740-1741 (Preliminary)*.

By order of the Commission.

Issued: May 12, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025-08715 Filed 5-15-25; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-712-714 and 731-TA-1679-1681 (Final)]

Ferrosilicon From Brazil, Kazakhstan, and Malaysia

Determinations

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"),

that an industry in the United States is materially injured by reason of imports of ferrosilicon from Brazil, Kazakhstan, and Malaysia, provided for in subheadings 7202.21 and 7202.29 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV") and subsidized by the governments of Brazil, Kazakhstan, and Malaysia.^{2,3}

Background

The Commission instituted these investigations effective March 28, 2024, following receipt of petitions filed with the Commission and Commerce by CC Metals and Alloy, LLC, Calvert City, Kentucky, and Ferroglobe USA, Inc., Beverly, Ohio. The Commission scheduled the final phase of the investigations following notification of preliminary determinations by Commerce that imports of ferrosilicon from Russia 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** of July 9, 2024 (89 FR 56407). All persons who requested the opportunity were permitted to participate.

The investigation schedules became staggered when Commerce postponed its preliminary determinations for the antidumping and countervailing duty investigations with respect to Brazil, Kazakhstan, and Malaysia, but not its preliminary determinations for the antidumping and countervailing duty investigations with respect to Russia. Following notification of final determinations by Commerce that imports of ferrosilicon from Brazil, Kazakhstan, and Malaysia were being subsidized by the governments of Brazil, Kazakhstan, and Malaysia within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of section 735(a) of the Act (19 U.S.C. 1673d(a)), notice of the supplemental scheduling of the final

phase of the Commission's countervailing duty and antidumping duty investigations 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** of April 4, 2025 (90 FR 14869).

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 May 12, 2025. The views of the Commission are contained in USITC Publication 5620 (May 2025), entitled *Ferrosilicon from Brazil, Kazakhstan, and Malaysia: Investigation Nos. 701-TA-712-714 and 731-TA-1679-1681 (Final)*.

By order of the Commission.

Issued: May 12, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025-08720 Filed 5-15-25; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Employee Rights Under National Labor Relations Act Complaint Process

AGENCY: Office of Labor-Management Standards, Department of Labor.

ACTION: Notice; request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), the Department of Labor (DOL) is soliciting public comments regarding the proposed extension of this Office of Labor-Management Standards (OLMS)-sponsored information collection for the authority to continue the information collection request (ICR) titled, "Notice of Employee Rights under National Labor Relations Act Complaint Process," currently approved under OMB Control Number 1245-0004.

DATES: Consideration will be given to all written comments received by July 15, 2025.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Andrew Davis at (202) 693-0123 (this is not a toll-free number). For persons with a hearing or speech disability who need assistance to use the telephone system, please dial 711 to access telecommunications relay services.

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² 90 FR 14075, 14077, 14105, 14108, 14112, and 14114 (March 28, 2025).

³ The Commission also finds that imports subject to Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of the countervailing duty orders on Brazil and Malaysia.

Electronic submission: You may submit comments and attachments electronically at <https://www.regulations.gov>, by searching for Docket ID LMSO-2025-0001.

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.

FOR FURTHER INFORMATION CONTACT: Andrew Davis, Director of the Office of Program Operations, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-5609, Washington, DC 20210, by telephone at (202) 693-0123 (this is not a toll-free number), 711 (TTY/TDD), or by email at olms-public@dol.gov.

SUPPLEMENTARY INFORMATION: Executive Order 13496 (E.O. 13496), signed on January 30, 2009, specifies certain provisions related to employees' rights under Federal labor law that Federal Government contracting departments and agencies must include in every Government contract, except for collective bargaining agreements and contracts for purchases under the Simplified Acquisition Threshold. The Order provides the text of these contractual provisions. One of these provisions requires contractors and subcontractors to post a notice informing employees of their rights under the National Labor Relations Act.

OLMS administers the enforcement provisions of Executive Order 13496, while the compliance evaluation and investigatory provisions are handled by the Department's Office of Federal Contract Compliance Programs (OFCCP), pursuant to the Order's implementing regulatory provisions (29 CFR part 471). Complaints can be filed with both agencies.

The Department seeks extension of the current approval to collect this information. An extension is necessary because if this information collection is not conducted, E.O. 13496 could not be enforced through the complaint procedure.

One of the Order's contractual provisions requires contractors and

subcontractors to post a notice informing employees of their rights under the National Labor Relations Act. The Secretary is granted the authority to "prescribe the size, form, and content of the notice." E.O. 13496, section 3(b). The notice, as prescribed by the Secretary, also lists activities that are illegal under the Act. The notice concludes with a general description of the remedies to which employees may be entitled if these rights have been violated and contact information for further information about those rights and remedies, as well as enforcement procedures.

The E.O. also requires contractors to include the same clauses in their nonexempt subcontracts and purchase orders, and describes generally the sanctions, penalties, and remedies that may be imposed if the contractor fails to satisfy its obligations under the Order and the clause.

The regulatory provisions implementing E.O. 13496 (29 CFR part 471) include the language of the required notices, and they explain posting and contractual requirements, the complaint process, the investigatory process, and sanctions, penalties, and remedies that may be imposed if the contractor or subcontractor fails to comply with its obligations under the Order. Specifically, 29 CFR part 471.11(c) sets forth the procedures that the Department must use when accepting written complaints alleging that a contractor doing business with the Federal government has failed to post the notice required by the Executive order.

The Department estimates a total of ten respondents with an equal number of responses per year. Since the ICR was last approved in 2022, the Department has received ten or fewer formal complaints each year. The Department thus maintains its estimate of ten complaints for the purposes of this renewal request. The Department continues to estimate that it will take a complainant 1.28 hours to file a complaint, for a total of 12.8 hours for the estimated 10 complaints.

Additionally, employees will incur costs of \$0.77 per complaint in capital/start-up costs (\$0.73 for standard-sized, rectangular envelopes postage in February 2025¹ + \$0.03 for an envelope + \$0.01 for paper) for a total cost of \$7.70. (Although employees will submit many if not all complaints via email, the Department assumes, conservatively, that it will receive all via mail.) The total cost for the estimated ten complaints is therefore \$7.70. There are

no ongoing operation/maintenance costs associated with this information collection.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record. Commenters are encouraged not to submit sensitive information (e.g., confidential business information or personally identifiable information such as a social security number).

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 years. OMB authorization for an ICR cannot be for more than three 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-OLMS.

Type of Review: Extension.

Title of Collection: Notice of Employee Rights under National Labor Relations Act Complaint Process.

OMB Control Number: 1245-0004.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 10.

Frequency: On Occasion.

Total Estimated Number of Responses: 10.

Estimated Average Time per Response: 1.28 hours.

Total Estimated Annual Time Burden: 12.8 hours.

Total Estimated Annual Other Costs Burden: \$7.70.

(Authority: 44 U.S.C. 3506(c)(2)(A))

Andrew Davis,

Director of the Office of Program Operations.
[FR Doc. 2025-08737 Filed 5-15-25; 8:45 am]

BILLING CODE 4510-86-P

¹ See: <https://www.usps.com/business/prices.htm>.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Subject 60-Day Notice for the 2025 Final Descriptive Report Update; Proposed Collection; Comment Request

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection in final descriptive reports for NEA grant and cooperative agreement awardees. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

ADDRESSES: Send comments to Sunil Iyengar, National Endowment for the Arts, via email (research@arts.gov).

SUPPLEMENTARY INFORMATION: The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Dated: May 13, 2025.

RaShaunda Thomas,
Administrative Officer (Deputy), Office of Administrative Services & Contracts, National Endowment for the Arts.

[FR Doc. 2025-08782 Filed 5-15-25; 8:45 am]

BILLING CODE 7537-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 99902117; NRC-2025-0079]

Long Mott Energy, LLC.; Long Mott Generating Station; Construction Permit Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing public notice each week for four consecutive weeks of receipt and availability of an application from Long Mott Energy, LLC. for a construction permit for a four-unit reactor facility. The application for the construction permit was received on March 31, 2025.

DATES: May 16, 2025.

ADDRESSES: Please refer to Docket ID NRC-2025-0079 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-2025-0079. 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 Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. 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, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Adrian Muñiz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-4093; email: Adrian.Muniz@nrc.gov.

SUPPLEMENTARY INFORMATION: On March 31, 2025, Long Mott Energy, LLC., a wholly owned subsidiary of the Dow Chemical Company, filed an application for a construction permit for a four-unit power reactor facility to be located in Calhoun County, Texas, pursuant to section 103 of the Atomic Energy Act, as amended, and part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Production and Utilization Facilities." The four-unit facility is to be identified as Long Mott Generating Station and would be based on the X-energy Xe-100, high-temperature gas-cooled reactor design. This would be the first application to include this design for NRC review.

The application is available in ADAMS under Package Accession No. ML25090A057. The information submitted by the applicant includes, among other things, the transmittal letter (ADAMS Accession No. ML25090A058), the preliminary safety analysis report (ADAMS Accession No. ML25090A061), the environmental report (ADAMS Accession No. ML25090A063), and certain financial qualification information (ADAMS Accession No. ML25090A059). These notices are being provided in accordance with the requirements in 10 CFR 50.43(a)(3).

The NRC staff is currently undertaking its acceptance review of the application. If the application is accepted for docketing, a subsequent **Federal Register** notice will be issued that addresses the acceptability of the construction permit application for docketing and provisions for participation of the public in the permitting process.

Dated: April 29, 2025.

For the Nuclear Regulatory Commission.

Adrian Muñiz Gonzalez,

Senior Project Manager, Advanced Reactor Licensing Branch 2, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2025-07729 Filed 5-15-25; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2025-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks May 19, 26, and June 2, 9, 16, 23, 2025. 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 notify Anne Silk, NRC Disability Program Specialist, at 301-287-0745, by videophone at 240-428-3217, or by email at Anne.Silk@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 May 19, 2025

There are no meetings scheduled for the week of May 19, 2025.

Week of May 26, 2025—Tentative

There are no meetings scheduled for the week of May 26, 2025.

Week of June 2, 2025—Tentative

Friday, June 6, 2025

10:00 a.m. Meeting with the Advisory Committee on Reactor Safeguards (Public Meeting) (Contact: Rob Krsek: 301-415-1766)

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 June 9, 2025—Tentative

There are no meetings scheduled for the week of June 9, 2025.

Week of June 16, 2025—Tentative

Tuesday, June 17, 2025

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/>.

Week of June 23, 2025—Tentative

There are no meetings scheduled for the week of June 23, 2025.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Chris Markley at 301-415-6293 or via email at Christopher.Markley@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: May 14, 2025.

For the Nuclear Regulatory Commission.

Christopher Markley,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2025-08860 Filed 5-14-25; 11:15 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

726th Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232(b)), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on June 4-6, 2025. The Committee will be conducting meetings that will include some Members being physically present at the headquarters of the U.S. Nuclear Regulatory Commission (NRC) while other Members participate remotely. Interested members of the public are encouraged to participate remotely in any open sessions via Microsoft (MS) Teams or via phone at

301-576-2978, passcode 70702270#. A more detailed agenda, including the MSTeams link, may be found at the ACRS public website at <https://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html>. If you would like the MSTeams link forwarded to you, please contact the Designated Federal Officer (DFO) as follows: Quynh.Nguyen@nrc.gov, or Lawrence.Burkhart@nrc.gov.

Wednesday, June 4, 2025

8:30 a.m.–8:35 a.m.: *Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chair will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: *Draft Interim Staff Guidance: Content of Risk Assessment and Severe Accident Information in Light-Water Power Reactor Construction Permit Applications* (Open)—The Committee will have presentations and discussions with NRC staff regarding the subject topic and proceed to preparation of reports.

10:30 a.m.–1:00 p.m.: *Committee Deliberation on Draft Interim Staff Guidance: Content of Risk Assessment and Severe Accident Information in Light-Water Reactor Construction Permit Applications* (Open)—The Committee will deliberate regarding the subject topic and proceed to preparation of reports.

1:00 p.m.–6:00 p.m.: *Report Preparation/Commission Meeting Preparation* (Open/Closed)—The Committee will proceed to preparation of reports and Commission meeting. [Note: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Thursday, June 5, 2025

8:30 a.m.–5:00 p.m.: *Planning and Procedures Session/Future ACRS Activities/Reconciliation of ACRS Comments and Recommendations/Preparation of Reports* (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings, and/or proceed to preparation of reports. [Note: Pursuant to 5 U.S.C. 552b(c)(2), a portion of this meeting may be closed to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS.]

[Note: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Friday, June 6, 2025

1:00 p.m.–5:00 p.m.: *Preparation of Reports* (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee and/or proceed to preparation of reports. [Note: Pursuant to 5 U.S.C. 552b(c)(2), a portion of this meeting may be closed to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS.]

[Note: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on April 29, 2025 (90 FR 17837). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the DFO (Telephone: 301–415–5844, Email: Quynh.Nguyen@nrc.gov), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chair as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the cognizant ACRS staff if such rescheduling would result in major inconvenience.

An electronic copy of each presentation should be emailed to the cognizant ACRS staff at least three days before the meeting.

In accordance with subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chair. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at pdr.resource@nrc.gov, or by calling the PDR at 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern daylight time, Monday through Friday, except Federal holidays, or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System, which is

accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html> or <https://www.nrc.gov/reading-rm/doc-collections/#ACRS/>.

Dated: May 12, 2025.

For the Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2025–08714 Filed 5–15–25; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–395; NRC–2023–0152]

Dominion Energy South Carolina, Inc.; Virgil C. Summer Nuclear Station, Unit 1; Final Supplemental Environmental Impact Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has published a final Supplemental Environmental Impact Statement (SEIS), issued as NUREG–1437, Supplement 15, Second Renewal, to the Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants, Final Report, regarding the subsequent renewal of Renewed Facility Operating License No. NPF–12 for an additional 20 years for Virgil C. Summer Nuclear Station, Unit 1 (V.C. Summer). V.C. Summer is located in Fairfield County, South Carolina. Possible alternatives to the proposed action of license renewal for V.C. Summer were evaluated and included the no-action alternative and reasonable replacement power alternatives.

DATES: NUREG–1437, Supplement 15, Second Renewal, to the GEIS for License Renewal of Nuclear Plants is available as of May 8, 2025.

ADDRESSES: Please refer to Docket ID NRC–2023–0152 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–2023–0152. 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 Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. NUREG–1437, Supplement 15, Second Renewal, is available in ADAMS under Accession No. ML25128A160.

- **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.

- **Public Library:** A copy of NUREG–1437, Supplement 15, Second Renewal, to the GEIS for License Renewal of Nuclear Plants, Final Report, regarding the proposed subsequent renewal of Renewed Facility Operating License No. NPF–12 for an additional 20 years for V.C. Summer will be available for public review at the Fairfield County Library located at 300 West Washington Street, Winnsboro, South Carolina 29180.

FOR FURTHER INFORMATION CONTACT: Kim Conway, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1335; email: Kimberly.Conway@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 51.118 of title 10 of the *Code of Federal Regulations*, “Final environmental impact statement—notice of availability,” the NRC is making available to the public, NUREG–1437, Supplement 15, Second Renewal, to the GEIS for License Renewal of Nuclear Plants, Final Report, regarding the subsequent renewal of Renewed Facility Operating License No. NPF–12 for an additional 20 years for V.C. Summer. A notice of availability of the draft SEIS was published in the **Federal Register** on December 6, 2024 (89 FR 97077). The U.S. Environmental Protection Agency (EPA) issued its Notice of Availability on December 6, 2024 (89 FR 96960). The comment period was originally scheduled to close on January 21, 2025. On January 23, 2025, a notice was published in the **Federal Register** reopening the public comment period to

accommodate a rescheduled public meeting and to provide additional time for members of the public to develop and submit comments (90 FR 8056). On January 31, 2025, the EPA issued a notice of extension of the comment period (90 FR 8715). The public comment period on the draft SEIS ended on February 11, 2025, and the comments received on the draft SEIS are addressed in the final SEIS.

II. Discussion

The draft SEIS was issued for public comment on December 6, 2024. The final SEIS addresses the comments received on the draft SEIS. As discussed in Chapter 4 of the final SEIS, the NRC staff has determined that the adverse environmental impacts of subsequent license renewal for V.C. Summer (*i.e.*, the continued operation of V.C. Summer for a period of 20 years beyond the expiration date of the current renewed operating license) are not so great that preserving the option of subsequent license renewal for energy-planning decision-makers would be unreasonable. This recommendation is based on: (1) information provided in the environmental report, as supplemented, and other documents submitted by Dominion Energy South Carolina, Inc.; (2) consultation with Federal, State, Tribal, and local governmental agencies; (3) the NRC staff's independent environmental review; and (4) consideration of public comments received during the scoping process and on the draft SEIS.

Dated: May 13, 2025.

For the Nuclear Regulatory Commission.

John Moses,

Deputy Director, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. 2025-08802 Filed 5-15-25; 8:45 am]

BILLING CODE 7590-01-P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Request for Coverage Determination Form

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, with modifications, under the Paperwork

Reduction Act, of a collection of information necessary for PBGC to determine whether a plan is covered under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of PBGC's request and solicits public comment on the collection of information, as modified.

DATES: Comments must be submitted on or before June 16, 2025 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

All comments received will be posted without change to PBGC's website, www.pbgc.gov, including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information.

A copy of the request will be posted on PBGC's website at www.pbgc.gov/prac/laws-and-regulation/federal-register-notices-open-for-comment. It may also be obtained without charge by writing to the Disclosure Division (disclosure@pbgc.gov), Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101; or, calling 202-229-4040 during normal business hours. If you are deaf or hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT:

Monica O'Donnell (odonnell.monica@pbgc.gov), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101, 202-229-8706. 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: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of a collection of information that filers use to request that PBGC determine whether a defined benefit pension plan is covered under title IV of the Employee Retirement Income Security Act of 1974 (ERISA) (OMB control number 1212-0072; expires June 30, 2025). This notice informs the public of PBGC's request

and solicits public comment on the collection of information.

A plan is covered under title IV, and thereby insured by PBGC, if it is described in section 4021(a) of ERISA and does not meet one of the exemptions from coverage listed in section 4021(b)(1)–(13). If a question arises about whether a plan is covered under title IV, a plan may submit the Request for Coverage Determination form to PBGC.

The Request for Coverage Determination form and corresponding instructions are suitable for all types of requests, but they highlight the four plan types for which coverage determinations are most frequently requested: (1) church plans as listed in section 4021(b)(3) of ERISA; (2) plans that are established and maintained exclusively for the benefit of plan sponsors' substantial owners as listed in section 4021(b)(9); (3) plans that cover, since September 2, 1974, no more than 25 active participants and that are established and maintained by professional services employers as listed in section 4021(b)(13); and (4) Puerto Rico-based plans within the meaning of section 1022(i)(1) of ERISA. PBGC needs the information requested to determine whether a plan is covered or not covered under title IV of ERISA.

PBGC's pilot program that specifically provided for a prospective plan to request a coverage determination when the plan was proposed but not yet established expired September 30, 2022. PBGC is removing outdated references to the pilot program in question 4 of Part II of the form and instructions. PBGC is also proposing to revise question 3 of Part III of the form, relating to substantial owners plans, to require a list of all the limited liability company's (LLC) members (if the employer sponsor is an LLC) rather than a statement on how the LLC is treated for federal tax purposes for clarity. Lastly, PBGC is proposing editorial changes to question 4 of part III and question 3 of part V to provide greater clarity to filers.

The existing collection of information is approved through June 30, 2025, under OMB control number 1212-0072. On March 10, 2025, PBGC published in the **Federal Register** (90 FR 11632) a notice informing the public of its intent to request an extension of this collection of information. No comments were received. PBGC is requesting that OMB extend approval of the collection for 3 years. 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.

PBGC estimates that each year there will be 295 Request for Coverage Determination forms submitted to PBGC. PBGC further estimates the average hour burden is 1.5 hours and average cost burden is \$300. The total estimated annual burden of the collection of information is 442.5 hours and \$88,500.

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2025-08730 Filed 5-15-25; 8:45 am]

BILLING CODE 7709-02-P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collections for OMB Review; Comment Request; Multiemployer Plan Regulations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of collections of information in PBGC's regulations on multiemployer plans under the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of PBGC's request and solicits public comment on the collections of information.

DATES: Comments must be submitted by June 16, 2025 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. All comments received will be posted without change to PBGC's website, www.pbgc.gov, including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information.

Copies of the collections of information may be obtained without charge by writing to Disclosure Division (disclosure@pbgc.gov), Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street

SW, Washington, DC 20024-2101, or calling 202-229-4040 during normal business hours. If you are deaf or hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT:

Hilary Duke (duke.hilary@pbgc.gov), Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington DC 20024-2101; 202-229-3839. 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: OMB has approved and issued control numbers for three collections of information in PBGC's regulations relating to multiemployer plans (1212-0020, 1212-0032, 1212-0033) under the Employee Retirement Income Security Act of 1974 (ERISA). These collections of information are described below. OMB approvals for these collections of information expire June 30, 2025. On March 10, 2025, PBGC published in the **Federal Register** (90 FR 11630) a notice informing the public of its intent to request an extension of this collection of information, as modified. No comments were received. PBGC is requesting that OMB extend approval of the collection (with modifications) for 3 years. 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.

1. Termination of Multiemployer Plans (29 CFR Part 4041A) (OMB Control Number 1212-0020) (Expires June 30, 2025)

Section 4041A(f)(2) of ERISA authorizes PBGC to prescribe reporting requirements and other rules and standards for administering terminated multiemployer plans. Section 4041A(c) and (f)(1) of ERISA prohibit the payment by a mass-withdrawal-terminated plan of lump sums greater than \$1,750 or of nonvested plan benefits unless authorized by PBGC.

The regulation requires the plan sponsor of a terminated plan to file a notice of termination with PBGC. The notice of termination must contain the information and certification specified in the instructions for the notice of termination on www.pbgc.gov. The regulation also requires the plan sponsor of a mass-withdrawal-terminated plan that is closing out to give notices to participants regarding the election of alternative forms of

benefit distribution and, if the plan is not closing out, to obtain PBGC approval to pay lump sums greater than \$1,750 or to pay nonvested plan benefits.

PBGC uses the information in a notice of termination to assess the likelihood that PBGC financial assistance will be needed. Plan participants and beneficiaries use the information on alternative forms of benefit to make personal financial decisions. PBGC uses the information in an application for approval to pay lump sums greater than \$1,750 or to pay nonvested plan benefits to determine whether such payments should be permitted.

The regulation also requires plans terminated by mass withdrawal, plans terminated by plan amendment that are expected to become insolvent, and insolvent plans under part 4245 receiving financial assistance from PBGC (whether terminated or not terminated) to file with PBGC withdrawal liability information and actuarial valuations or, for smaller plans receiving financial assistance where the present value of the plan's nonforfeitable benefits is \$50 million or less, alternative information. PBGC uses the actuarial valuation information to estimate PBGC's multiemployer liabilities for purposes of its financial statements and to provide financial assistance to plans that become insolvent. PBGC is proposing to eliminate the requirement to file withdrawal liability information because it no longer uses this information to estimate PBGC's multiemployer liabilities.¹

PBGC estimates that each year, plan sponsors submit notices of termination for 5 plans, distribute election notices to participants in 1 of those plans and submit requests to pay benefits or benefit forms not otherwise permitted for 1 of those plans. The estimated annual burden of this part of this collection of information is 25 hours and \$25,000.

Furthermore, PBGC estimates that each year, plan sponsors file actuarial valuations electronically for 22 plans that are terminated or insolvent, and that only 1 smaller plan will file alternative information. The estimated annual burden of this part of the collection of information is 6.5 hours and \$2,600.

The estimated total hour burden is 31.5 hours (25 + 6.5). The estimated annual burden of the collection of

¹ In 2022, PBGC reported to OMB that it expected to receive withdrawal liability payment information from approximately 10 plans, with an estimated hour burden of 10 hours of fund office time and an estimated cost burden of \$4,000 for legal services.

information is estimated to be \$27,600 (\$25,000 + \$2,600).

2. Duties of Plan Sponsor of an Insolvent Plan (29 CFR Part 4245) (OMB Control Number 1212-0033) (Expires June 30, 2025)

Section 4245(e) of ERISA requires two types of notice: a “notice of insolvency,” stating a plan sponsor’s determination that the plan is or may become insolvent, and a “notice of insolvency benefit level,” stating the level of benefits that will be paid during an insolvency year. The recipients of these notices are PBGC, contributing employers, employee organizations representing participants, and participants and beneficiaries.

The regulation establishes the procedure for complying with these notice requirements. It allows a plan sponsor to combine the notice of insolvency and notice of insolvency benefit level. In addition, the regulation only requires a plan sponsor to provide an updated notice to participants and beneficiaries if there is a change in the amount of benefits paid to participants and beneficiaries. PBGC uses the information submitted to estimate cash needs for financial assistance to troubled plans. The collective bargaining parties use the information to decide whether additional plan contributions will be made to avoid the insolvency and consequent benefit suspensions. Plan participants and beneficiaries use the information in personal financial decisions.

PBGC estimates that at most one plan sponsor of an ongoing plan gives notices each year under section 4245. The estimated annual burden of the collection of information is 16 hours and \$10,000.

3. Duties of Plan Sponsor Following Mass Withdrawal (29 CFR Part 4281) (OMB Control Number 1212-0032) (Expires June 30, 2025)

Section 4281 of ERISA provides rules for plans that have terminated by mass withdrawal. Under section 4281, if nonforfeitable benefits exceed plan assets, the plan sponsor must amend the plan to reduce benefits. If the plan nevertheless becomes insolvent, the plan sponsor must suspend certain benefits that cannot be paid. If available resources are inadequate to pay guaranteed benefits, the plan sponsor must request financial assistance from PBGC.

The regulation requires a plan sponsor to give notices of benefit reduction, notices of insolvency, and notices of insolvency benefit level to PBGC and to participants and

beneficiaries and, if necessary, to apply to PBGC for financial assistance. A plan sponsor can combine the notice of insolvency and the notice of insolvency benefit level.

PBGC uses the information it receives to make determinations required by ERISA, to identify and estimate the cash needed for financial assistance to terminated plans, and to verify the appropriateness of financial assistance payments. Plan participants and beneficiaries use the information to make personal financial decisions.

PBGC estimates that plan sponsors of terminated plans each year will file with PBGC 1 notice of benefit reduction, 2 notices of insolvency, 2 combined notices of insolvency and insolvency benefit level, and 3 notices of insolvency benefit level. PBGC also estimates that plan sponsors each year will file initial requests for financial assistance for 5 plans and will submit 369 non-initial applications for financial assistance. The estimated annual burden of the collection of information is 113 hours and \$268,000.

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2025-08729 Filed 5-15-25; 8:45 am]

BILLING CODE 7709-02-P

POSTAL REGULATORY COMMISSION

[Docket No. C2025-7; Presiding Officer’s Ruling No. 1]

Complaint

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is providing notice that a prehearing videoconference is being scheduled and providing other case management information.

DATES: *Live Videoconference:* June 5, 2025, at 11 a.m., eastern daylight time, virtual.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

I. Introduction

II. Ruling

I. Introduction

Pursuant to Order No. 8827, the Presiding Officer shall set a procedural schedule, conduct limited discovery, and hear argument and briefing in order to resolve the remaining disputed issues

of fact and law in this case.¹ After conducting discovery relevant to the disputed issues identified by the Commission and considering the positions of the parties, the Presiding Officer will provide a public, written intermediate decision including findings of fact and conclusions of law on the relevant issues. To complete these objectives expeditiously, efficiently, and fairly, the Presiding Officer will conduct a prehearing videoconference on Thursday, June 5, 2025, at 11 a.m.²

Complainants and counsel for the Postal Service are directed to meet and confer no later than Tuesday, May 27, 2025, to consider the matters specified in 39 CFR 3010.302(e) and in this Presiding Officer’s ruling. The parties are further directed to file on the docket a joint memorandum addressing the pertinent matters, along with any related proposed stipulations and a joint statement clarifying any issues for which the parties cannot agree to a mutually acceptable process, no later than Monday, June 2, 2025, at 4:30 p.m.

Pursuant to Order No. 8827, parties may request that the Presiding Officer obtain specific discovery but may not independently propound discovery requests on each other. Order No. 8827 at 22.

II. Ruling

1. A prehearing videoconference will be conducted before the Presiding Officer on Thursday, June 5, 2025, at 11 a.m.

2. Complainants and counsel for the Postal Service are directed to confer no later than Tuesday, May 27, 2025 to consider the matters specified in 39 CFR 3010.302(e) and in this Presiding Officer’s Ruling.

3. The joint prehearing conference memorandum, with any related proposed stipulations and a joint statement clarifying any issues for which the parties cannot agree to a mutually acceptable process, must be filed on the docket no later than Monday, June 2, 2025, at 4:30 p.m.

4. The parties and counsel shall follow the initial case management procedures established by this Presiding Officer’s Ruling.

¹ Order Partially Denying United States Postal Service’s Motion to Dismiss the February 5, 2025 Amended Complaint and Notice of Limited Formal Proceedings, May 1, 2025, at 22 (Order No. 8827).

² All times listed in this Ruling are Eastern Daylight Time (EDT).

5. The Secretary shall arrange for publication of this ruling (or abstract thereof) in the **Federal Register**.

Erica A. Barker

Secretary.

[FR Doc. 2025–08759 Filed 5–15–25; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2025–1374 and K2025–1374; MC2025–1375 and K2025–1375; MC2025–1376 and K2025–1376; MC2025–1377 and K2025–1377; MC2025–1378 and K2025–1378]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 20, 2025.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance

with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. See 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).*: MC2025–1374 and K2025–1374; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground

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).

Advantage Contract 740 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 12, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* May 20, 2025.

2. *Docket No(s).*: MC2025–1375 and K2025–1375; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 741 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 12, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Arif Hafiz; *Comments Due:* May 20, 2025.

3. *Docket No(s).*: MC2025–1376 and K2025–1376; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 742 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 12, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* May 20, 2025.

4. *Docket No(s).*: MC2025–1377 and K2025–1377; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 743 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 12, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Cherry Yao; *Comments Due:* May 20, 2025.

5. *Docket No(s).*: MC2025–1378 and K2025–1378; *Filing Title:* USPS Request to Add Priority Mail Contract 810 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 12, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Arif Hafiz; *Comments Due:* May 20, 2025.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2025–08789 Filed 5–15–25; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE**Change in Rates and Classifications of General Applicability for Competitive Products**

AGENCY: Postal Service.

ACTION: Notice of a change in rates and classifications of general applicability for competitive products.

SUMMARY: This notice sets forth changes in rates and classifications of general applicability for competitive products.

DATES: Applicability date: July 13, 2025.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: On May 8, 2025, pursuant to their authority under 39 U.S.C. 3632, the Governors of the Postal Service established price and classification changes for competitive products. The Governors' Decision and the record of proceedings in connection with such decision are reprinted below in accordance with section 3632(b)(2). Mail Classification Schedule language containing the new prices can be found at www.prc.gov.

Kevin Rayburn,
Attorney, Ethics and Legal Compliance.

Decision of the Governors of the United States Postal Service on Changes in Rates and Classifications of General Applicability for Competitive Products (Governors' Decision No. 25–1)

May 8, 2025

Statement of Explanation and Justification

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 (“PAEA”), we establish prices and classifications of general applicability for the Postal Service's competitive products. The changes are described generally below, with a detailed description of the changes in the Postal Service's associated draft Mail Classification Schedule change document. That document contains the draft Mail Classification Schedule sections with classification changes in legislative format, and new prices displayed in the price charts.

As shown in the nonpublic annex being filed under seal herewith, the changes we establish should enable each competitive product to cover its attributable costs (39 U.S.C. 3633(a)(2)) and should result in competitive products as a whole complying with 39 U.S.C. 3633(a)(3), which, as implemented by 39 CFR 3035.107(c), requires competitive products

collectively to contribute a minimum of 9.6 percent to the Postal Service's institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. 3633(a)(1)). We therefore find that the new prices and classification changes are in accordance with 39 U.S.C. 3632–3633 and 39 CFR 3035.102 and 104.

I. Domestic Products

A. Priority Mail Express

Priority Mail Express prices will not change for July 2025, and the existing price structure will be maintained. Non-Standard Fees (NSF) applicable to Priority Mail Express packages will be restructured for July 2025. Finally, the IMpb Noncompliance Fee will be renamed the Package Quality Noncompliance Fee.

B. Priority Mail

On average, Priority Mail prices will be increased by 6.3 percent, and the existing price structure will be maintained.

Retail prices will increase by an average of 7.3 percent. Retail Flat Rate Box prices will be: Small, \$11.70; Medium, \$21.05; Large, \$29.95 and Large APO/FPO/DPO, \$28.70. Thus, the Large APO/FPO/DPO Flat Rate Box will be \$1.25 less than the Large Flat Rate Box. The regular Flat Rate Envelope will be priced at \$11.00, with the Legal Size and Padded Flat Rate Envelopes priced at \$11.20 and \$11.95, respectively.

The Commercial price category will increase by 5.1 percent on average. Commercial prices will, on average, reflect a 14.6 percent discount off of Retail prices. Non-Standard Fees (NSF) applicable to Priority Mail packages will be restructured for July 2025. Finally, the IMpb Noncompliance Fee will be renamed the Package Quality Noncompliance Fee.

C. Parcel Select

On average, Parcel Select prices as a whole will increase 7.6 percent. For destination delivery unit (DDU) entered parcels, the average price increase is 10.0 percent. For destination hub (Dhub) entered parcels, the average price increase is 0.0 percent. For destination sectional center facility (DSCF) destination entered parcels, the average price increase is 7.2 percent. For Connect Local, introduced in 2022, the average price increase is 5.7 percent. The destination network distribution center (DNDC) price category within the Parcel Select product will be eliminated for July 2025, because it now has limited operational value based on

recent network changes. Non-Standard Fees (NSF) applicable to Parcel Select packages will be restructured for July 2025. Finally, the IMpb Noncompliance Fee will be renamed the Package Quality Noncompliance Fee.

D. USPS Ground Advantage

USPS Ground Advantage, introduced in July 2023, is the Postal Service's flagship ground package product. Overall, USPS Ground Advantage prices will increase 7.1 percent on average, and the existing structure will be maintained. Retail prices will increase 9.8 percent on average, while Commercial prices will increase 4.7 percent on average. The Alaska Limited Overland Routes (LOR) price category will see a 9.9 percent average increase for July 2025. New for July 2025, USPS Ground Advantage Commercial packages will be sealed against inspection, which will better align it with our Retail offering and help to grow USPS Ground Advantage volume. Non-Standard Fees (NSF) applicable to USPS Ground Advantage packages will be restructured for July 2025. Finally, the IMpb Noncompliance Fee will be renamed the Package Quality Noncompliance Fee.

F. Domestic Extra Services

No competitive Extra Services prices will change for July 2025.

II. International Products

No competitive International Products prices will change for July 2025.

Order

The changes in prices and classes set forth herein shall be effective at 12:01 a.m. on July 13, 2025. We direct the Secretary of the Board of Governors Office to have this decision published in the **Federal Register** in accordance with 39 U.S.C. 3632(b)(2) and direct management to file with the Postal Regulatory Commission appropriate notice of these changes.

By The Governors:
Amber F. McReynolds,
Chairman, Board of Governors.

**UNITED STATES POSTAL SERVICE
OFFICE OF THE BOARD OF
GOVERNORS**

**Certification of Governors' Vote on
Governors' Decision No. 25–1**

Consistent with 39 U.S.C. 3632(a), I hereby certify that, on May 8, 2025, the Governors voted on adopting Governors' Decision No. 25–1, and that a majority of the Governors then holding office voted in favor of that Decision.

Date: May 8, 2025.

Lucy C. Trout,
Acting Secretary of the Board of Governors.
 [FR Doc. 2025–08709 Filed 5–15–25; 8:45 am]
BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35582; File No. 812–15562]

MSD Investment Corp., et al.

May 12, 2025.

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: MSD Investment Corp., MSD Partners, L.P., BDT Capital Partners, LLC, BDTCP Investments 2022, LLC, Arcus Parent, LLC, Arcus Holdings, Inc., Investors Life Insurance Company of North America, MSD BDC SPV I, LLC, MSD BDC SPV II, LLC, and MSD BDC CLO I, LLC, and certain of their affiliated entities as described in Schedule A to the application.

FILING DATES: The application was filed on April 11, 2024, and amended on August 13, 2024, November 25, 2024, March 26, 2025 and April 29, 2025.

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. Hearing requests should be received by the Commission by 5:30 p.m. on June 6, 2025, 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: Robert Simonds, MSD Partners, L.P., 550 Madison Avenue, 20th Floor, New York, NY 10022, *bsimonds@bdtmsd.com*; Anne G. Oberndorf, Eversheds Sutherland (US) LLP, 700 Sixth Street NW, Suite 700, Washington, DC 20001, *anneoberndorf@eversheds-sutherland.com*.

FOR FURTHER INFORMATION CONTACT: Adam Large, Senior Special Counsel, Deepak T. Pai, Senior Counsel, or Daniele Marchesani, Assistant Chief 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’ fourth amended application, filed April 29, 2025, 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/edgar/searchedgar/companysearch.html>. 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. 2025–08718 Filed 5–15–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–103025; File No. SR–PEARL–2025–20]

Self-Regulatory Organizations; MIAx PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAx Pearl Equities Fee Schedule To Adopt Fees for the U.S. Equity Short Volume & Trade Report

May 12, 2025.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act

of 1934 (“Act”) ¹ and Rule 19b–4 thereunder,² notice is hereby given that on April 30, 2025, MIAx PEARL, LLC (“MIAx Pearl” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule (the “Fee Schedule”) applicable to the Exchange’s equities trading platform (“MIAx Pearl Equities”) ³ to adopt monthly fees assessed to users that elect to subscribe to the U.S. Equity Short Volume & Trades Report.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings> at MIAx Pearl’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt monthly fees assessed to users that elect to subscribe to the U.S. Equity Short Volume & Trades Report.

The Exchange recently adopted a new data product known as the U.S. Equity Short Volume & Trades Report (the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ All references to the “Exchange” in this filing refer to MIAx Pearl Options. Any references to the equities trading facility of MIAx PEARL, LLC will specifically be referred to as “MIAx Pearl Equities.”

“Report”).⁴ The Report, which will be available for subscription beginning May 1, 2025, includes (i) an end-of-day report that provides certain equity trading activity on the Exchange, including trade date, total trade volume, sell short trade volume, and sell short exempt trade volume, by symbol; and (ii) an end-of-month report that provides a record of all short sale transactions for the month, including trade date and time (in nanoseconds), trade size, trade price, and type of short sale execution, by symbol and exchange.⁵ In addition to a monthly or annual subscription, Equity Members⁶ and non-Members may purchase the Report on a historical monthly basis, which provides the end-of-day reports for each day and the corresponding end-of-month report for a given calendar month.

The Exchange proposes to amend the heading of Section 4) of the Fee Schedule to now be “Reports”. The Exchange proposes to adopt subsection 4)a) to establish fees for the Report. Specifically, the Exchange proposes to adopt fees applicable to users that subscribe to the Report. As proposed, the Exchange would assess a monthly fee of \$650 per month to an Internal Distributor⁷ of the Report, and a fee of \$900 per month to an External Distributor⁸ of the Report. External Distributors, unlike Internal Distributors, are typically compensated for the distribution of short sale data through subscription fees or other mechanisms. Some External Distributors incorporate short sale data into their own proprietary products, which they sell to downstream users. These distributors may not charge separately for data included in the Report, but

nevertheless gain value from the data by incorporating it into their product. The higher price for External Distributors reflects the additional value these distributors gain from the product. The Exchange also proposes to add a footnote “a” to provide that the Report is available for purchase on a monthly basis or on an annual basis and a subscriber to the Report will receive access to the end-of-day report beginning on the date of subscription and will receive the end-of-month report for the subscription month on the last business day of the month during which the user subscribed. In addition, the Exchange proposes to add a footnote “b” to specify that new monthly and annual subscribers will be charged for the full calendar month for which they subscribe and will be provided end-of-day report data for each trading day of the calendar month prior to the day on which they subscribed. The purpose of the proposed changes is to establish fees for the Report and provide clarity to Equity Members and non-Members as to when subscribers will receive the end-of-day report and end-of-month report respectively and what reports the subscribers will receive when they subscribe the Reports in the middle of a calendar month.

In addition, the Exchange proposes to adopt fees for the Report provided on a historical basis. The Report will be available for each calendar month dating back to September 2020, and users of such data will be assessed a fee of \$450 per historical monthly Report for which they subscribe. The Exchange proposes to add a footnote “c” to provide that the Report provided on a historical basis is only for display use redistribution; users who subscribe on an annual basis will receive 12 months of historical data included at no extra charge; in addition, users who subscribe on a monthly basis would have the option of purchasing historical data on a per month basis. Data provided via the historical Report is only for display use redistribution (e.g., the data may be provided on the User’s platform). Therefore, users of the historical data may not charge separately for data included in the Report or incorporate such data into their product. Nonetheless, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a fee for display use redistribution that reflects the value these distributors gain from the historical product.

The Exchange anticipates that a wide variety of market participants will purchase the Report, including, but not limited to, active equity trading firms and academic institutions. For example,

the Exchange notes that academic institutions may utilize the Report data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange further believes the Report may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange.

The Exchange further notes that the Report is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a higher or comparable fee, including for monthly, annual and historical subscribers.⁹

Additionally, the Exchange proposes to make conforming changes to the hierarchical headings in the Fee Schedule. Specifically, current Sections 4)–6) will be renumbered as Sections 5)–7). The purpose of the proposed changes is to provide consistency and clarity in the Fee Schedule regarding available market data products and reports.

Implementation

The proposed fee changes will be effective beginning May 1, 2025.

⁴ See Exchange Rule 2625(b)(1)(i); see also Securities and Exchange Act No. 102918 (April 23, 2025), 90 FR 17860 (April 29, 2025) (SR-PEARL–2025–17) (Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 2625 To Introduce a New Data Product Known as the U.S. Equity Short Volume & Trades Report).

⁵ See Exchange Rule 2625(b)(1)(i).

⁶ The term “Equity Member” is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

⁷ The term “Distributor” is any entity that receives the Exchange data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party. The term “Internal Distributor” is a Distributor that receives the Exchange data product and then distributes that data to one or more Users within the Distributor’s own entity. See Fee Schedule, Section 3) Market Data Fees, Market Data Definitions.

⁸ The term “External Distributor” is a Distributor that receives the Exchange data product and then distributes that data to a third party or one or more Users outside the Distributor’s own entity. See Fee Schedule, Section 3) Market Data Fees, Market Data Definitions.

⁹ See Cboe BZX Exchange, Inc. (“BZX Equities”) U.S. Equity Short Volume & Trades Report, available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/?gl=1*1pl6apd*up*MQ..*ga*MTY1NTIwODQyLjE3NDQ2NTAwNjk.*ga_5Q99WB9X71*MTc0NDY1MDA2Ny4xLjEuMTc0NDY1MDA3NC4wLjAuMA (last visited April 23, 2025); see also Cboe BYX Exchange, Inc. (“BYX Equities”) U.S. Equity Short Volume & Trades Report, available at [https://www.cboe.com/us/equities/membership/fee_schedule/byx/?gl=1*1056iz*up*MQ..*ga*MTY1NTIwODQyLjE3NDQ2NTAwNjk.*ga_5Q99WB9X71*MTc0NDY1MDEwMS4wLjAuMA](https://www.cboe.com/us/equities/membership/fee_schedule/byx/?gl=1*1056iz*up*MQ..*ga*MTY1NTIwODQyLjE3NDQ2NTAwNjk.*ga_5Q99WB9X71*MTc0NDY1MDA2Ny4xLjEuMTc0NDY1MDEwMS4wLjAuMA) (last visited April 23, 2025); see also Cboe EDGA Exchange, Inc. (“EDGA Equities”) U.S. Equity Short Volume & Trades Report, available at https://www.cboe.com/us/equities/membership/fee_schedule/edga/?gl=1*g9lsei*up*MQ..*ga*MTY1NTIwODQyLjE3NDQ2NTAwNjk.*ga_5Q99WB9X71*MTc0NDY1MDA2Ny4xLjEuMTc0NDY1MDI4OC4wLjAuMA (last visited April 23, 2025); see also Cboe EDGX Exchange, Inc. (“EDGX Equities”) U.S. Equity Short Volume & Trades Report, available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/?gl=1*8aj13d*up*MQ..*ga*MTY1NTIwODQyLjE3NDQ2NTAwNjk.*ga_5Q99WB9X71*MTc0NDY1MDA2Ny4xLjEuMTc0NDY1MDQyMi4wLjAuMA (last visited April 23, 2025).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes that its proposal furthers the objectives of Section 6(b)(4) of the Act¹¹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility. Additionally, the Exchange believes the proposed rule change furthers the objectives of Section 6(b)(5) of the Act,¹² in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest, and is not designed to permit unfair discrimination among customers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the Report further broadens the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The Report also promotes increased transparency through the dissemination of short volume data. The Report benefits investors by providing access to the Report, which may promote better informed trading, as well as research and studies of the equities industry.

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on publicly available information, no single equities exchange has more than approximately 15% of the equity market share.¹³ The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets.

Particularly, 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.”¹⁴ Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supercompetitive fees. In the event that a market participant views one exchange’s data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to adopt fees to attract purchasers of the recently introduced Report.

The Exchange believes that the proposed fees for the Report are consistent with the Act in that they are reasonable, equitable, and not unfairly discriminatory. In particular, the Exchange believes that the proposed fees are reasonable because they are reasonably aligned with the value and benefits provided to users that choose to subscribe to the Report on the Exchange. As discussed above, the Report may be beneficial to Equity Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. Therefore, the Exchange believes that it is reasonable to assess modest fees to users that subscribe to the Report.

The Exchange further believes the proposed fees are reasonable because the proposed amounts are lower than or comparable to the analogous fees charged by other exchanges for similar data products. For example, BZX Equities and its affiliated equity markets (the “Cboe Group”) charge \$750 per month to Internal Distributors and \$1,250 per month to External Distributors of the U.S. Equity Short Volume & Trades Report, and a back history fee of \$500 per data content month.¹⁵ The Nasdaq Stock Market LLC (“Nasdaq”) charges \$783 per month to Internal Distributors and \$1,300 per

month to External Distributors of the Nasdaq Short Sale Volume Reports provided on both a daily and historical monthly basis.¹⁶ Additionally, the New York Stock Exchange LLC (“NYSE”) and its affiliated equity markets (the “NYSE Group”) also charge for the TAQ NYSE Group Short Sales (Monthly File) and TAQ NYSE Group Short Volume (Daily File). Specifically, NYSE Group charges an access fee of \$1,000 per month for an ongoing subscription that includes 12 months of back history, then additional back history charged at \$500 per data content month. NYSE Group also charges a back history fee, of \$1,000 per data content month for the first 12 months of history, then additional back history charged at \$500 per data content month.¹⁷ The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other equity exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange’s data product, which as noted, is entirely optional. Although each of these similar data products provide only proprietary trade data and not trade data from other exchanges, it is possible investors are still able to gauge overall investor sentiment across different equities based on the included data points on any one exchange. As such, if a market participant views another exchange’s potential report as more attractive, then such market participant can merely choose not to purchase the Exchange’s Report and instead purchase another exchange’s similar data product, which offers similar data points, albeit based on that other market’s trading activity.

In addition, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply equally to all Equity Members and non-Members that choose to subscribe to the Report. As stated, the Report is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes the Report available, and users may choose to subscribe to (and pay for) the report based on their own individual business needs. Potential subscribers may subscribe to the Report at any time if

¹⁶ See Nasdaq Short Sale Volume Reports, available at <https://data.nasdaq.com/price-list?category=U.S.+Equities&subcategory=Nasdaq+Short+Sale+Volume+Reports> (last visited April 23, 2025).

¹⁷ See “NYSE Group Summary Data Products” portion of the NYSE Historical Proprietary Market Data Pricing, available at https://www.nyse.com/publicdocs/nyse/data/NYSE_Historical_Market_Data_Pricing.pdf (last visited April 23, 2025).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(5).

¹³ See the “Market Share” section of the Exchange’s website, available at <https://www.miaxglobal.com/company/data/market-share> (last visited April 23, 2025).

¹⁴ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹⁵ See *supra* note 9.

they believe it to be valuable or may decline to purchase it.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to charge an External Distributor of the Report a higher fee than an Internal Distributor as an External Distributor will ordinarily charge a fee to its downstream customers for this service, and, even if the vendor is not charging a specific fee for this particular service, the Exchange expects products from the Report to be part of a suite of offerings from distributors that generally promote sales. External distribution is also fundamentally different than internal use, in that the former generates revenue from external sales while the latter does not. Therefore, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a higher fee for a product that generates downstream revenue. Further, the proposed fee will apply equally to Internal and External Distributors, respectively, that choose to distribute data from the Report. Moreover, as described above, other exchanges similarly charge External Distributors higher fees as compared to Internal Distributors for similar data products.¹⁸

The Exchange believes that the proposed changes to the headings in the Fee Schedule 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 the proposed rule changes will provide greater clarity to Equity Members and the public regarding available market data products and reports offered by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes its proposal will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Report will be available equally to all Equity Members and non-Members that choose to subscribe to the report. As stated, the Report is optional and Equity Members and non-Members may choose to subscribe to such report, or not, based on their view of the additional benefits

and added value provided by utilizing the Report.

Intermarket Competition

The Exchange believes its proposal will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, similar products offered by Nasdaq, the Cboe Group, and the NYSE Group are priced higher than or comparable to the Report. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, 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.” The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’. . . .” Accordingly, the Exchange does not believe its proposal imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed changes to the headings in the Fee Schedule will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes the proposed changes will not impose any burden on intramarket because the rules of the Exchange apply to all Equity Members equally. The proposed rule changes to the headings in the Fee Schedule will have no impact on inter-market competition as they are not designed to address any competitive issue but rather are designed to provide added clarity to the Fee Schedule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁹ and Rule 19b-4(f)(2)²⁰ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-PEARL-2025-20 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-PEARL-2025-20. 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

¹⁸ See *supra* notes 9 and 16.

¹⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁰ 17 CFR 240.19b-4(f)(2).

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-PEARL-2025-20 and should be submitted on or before June 6, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-08696 Filed 5-15-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103023; File No. SR-FICC-2025-013]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Immediate Effectiveness of Proposed Rule Change To Permit Inter-Dealer Broker Netting Members To Use the Same Deposit ID

May 12, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 30, 2025, Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(4) thereunder.⁴ The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to FICC's Government Securities Division ("GSD") Rulebook ("GSD Rules" and "Rules") in order to permit Inter-Dealer Broker Netting Members who maintain both Dealer Account(s) and Broker Account(s) at FICC to use the same Deposit ID when making the Required Fund Deposit Portions for those Accounts.⁵

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FICC is proposing to amend the GSD Rules to permit Inter-Dealer Broker Netting Members to use the same Deposit ID when making the Required Fund Deposit Portions for its Broker Account(s) and Dealer Account(s), which are both Proprietary Accounts. The proposed rule change would not affect the requirements that (i) Brokered Transactions be recorded in Broker Accounts, separate from other Proprietary Transactions that are recorded in Dealer Accounts, pursuant to Rule 2B; and (ii) margin for Brokered Transactions that are recorded in Broker Accounts be calculated separately, through separate Margin Portfolios, from other Proprietary Transactions recorded in Dealer Accounts and from activity of indirect participants recorded in Indirect Participants Accounts, pursuant to Rule 4.⁶

Background

The GSD Rules include provisions that operate to separately record and

margin different types of activity. These provisions are primarily designed to ensure margin for Proprietary Transactions is calculated, collected and held separately and independently of margin for indirect participant transactions, in compliance with the requirements of Rule 17ad-22(e)(6)(i) under the Act.⁷ The provisions in the GSD Rules that accomplish this separate margining include requirements that (i) Proprietary Transactions and Indirect Participant Transactions be recorded in different Types of Accounts pursuant to Rule 2B; (ii) each Margin Portfolio established by Netting Members shall not contain more than one Type of Account, pursuant to Section 1b(a) of Rule 4; (iii) FICC calculates each Member's Required Fund Deposit to the Clearing Fund with reference to the Margin Portfolios established by that Member, pursuant to Section 1b(b) of Rule 4; and (iv) each Member's Required Fund Deposit consists of separate Required Fund Deposit Portions, each of which are calculated with respect to a separate Margin Portfolio, pursuant to Section 2(a) of Rule 4.⁸

In addition, to ensure separate collection and holding of margin deposited for Proprietary Transactions and indirect participant transactions, Section 2a(a) of Rule 4 requires that a Netting Member identify the different Account types for which a deposit is made on its wire instructions. Specifically, this Rule provides that each Required Fund Deposit Portion be made to FICC through a separate Deposit ID established by the Netting Member.⁹

The GSD Rules also require that brokered activity be recorded separately from other Proprietary Transactions. Specifically, Brokered Transactions can only be submitted to FICC by Netting Members that have qualified to be Inter-Dealer Broker Netting Members and must be recorded in Broker Accounts, separately from other Proprietary Transactions that are recorded in Dealer Accounts. Inter-Dealer Broker Netting Members receive favorable treatment under the loss allocation provisions with respect to their brokered activity.¹⁰

⁷ 17 CFR 240.17Ad-22(e)(6)(i).

⁸ See Rule 2B (Accounts) and Rule 4 (Clearing Fund and Loss Allocation), *supra* note 5.

⁹ See Rule 1 (Definitions), where "Deposit ID" is defined as "an operational mechanism used by [FICC] to identify the Account for which a deposit is being made with [FICC] pursuant to Rule 4 and to facilitate the separate holding of such deposits on [FICC]'s books and records." *Id.*

¹⁰ See Rule 4 (Clearing Fund and Loss Allocation) (providing that Inter-Dealer Broker Netting Members are subject to a cap on the application of FICC's loss allocation procedure of no greater than \$5 million if they meet a set of conditions), *id.*

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(4).

⁵ Capitalized terms not defined herein are defined in the GSD Rules, as applicable, available at www.dtcc.com/legal/rules-and-procedures.

⁶ See Rule 2B (Accounts) and Rule 4 (Clearing Fund and Loss Allocation), *id.*

FICC believes this favorable treatment is appropriate because Inter-Dealer Broker Netting Members do not undertake a directional position with respect to the transactions. Instead, each transaction has a counterparty other than the Inter-Dealer Broker Netting Member that will ultimately deliver the securities or pay the cash. Therefore, the Rules require that Brokered Transactions be recorded in separate Broker Accounts by Inter-Dealer Broker Netting Members ensuring that this favorable treatment be applied only with respect to those Members' Brokered Transactions.

Proposed Rule Change

As noted above, the requirements that operate to separately record and margin different types of activity serve important goals—FICC's maintenance of compliance with the requirements of Rule 17Ad-22(e)(6)(i) under the Act¹¹ and FICC's ability to apply favorable loss allocation treatment to only the brokered activity of Inter-Dealer Broker Netting Members (and not to other activity submitted by these Members). However, FICC believes that one of these requirements—that Inter-Dealer Broker Netting Members use separate Deposit IDs for their Broker Accounts and Dealer Accounts—is not necessary to meet either of these goals. Further, because Inter-Dealer Broker Netting Members may maintain both Broker Accounts and Dealer Accounts, this requirement limits those Members from the operational convenience of making their separate Required Fund Deposit Portions for their proprietary activity through one Deposit ID.

Therefore, FICC is proposing to amend Rule 4 to provide that an Inter-Dealer Netting Member that maintains both Broker Account(s) and Dealer Account(s) may utilize the same Deposit ID for amounts deposited with respect to the Required Fund Deposit Portions calculated for each of these separate Accounts. As noted above, FICC would not amend the requirements that Brokered Transactions be recorded in Broker Accounts, separately from other Proprietary Transactions recorded in Dealer Accounts, and that separate Required Fund Deposit Portions be calculated for the activity recorded in these separate Accounts. As such, the proposed change would not impact FICC's ability to maintain compliance with the requirements of Rule 17Ad-22(e)(6)(i)¹² under the Act or its ability to identify the brokered activity of Inter-Dealer Broker Netting Members from

those Members' other proprietary activity.

2. Statutory Basis

FICC believes that the proposed rule change is consistent with Section 17A of the Act and the rules thereunder applicable to FICC. Specifically, FICC believes that the proposed rule change is consistent with Section 17A(b)(3)(F)¹³ of the Act and Rule 17ad-22(e)(21),¹⁴ as promulgated under the Act, for the reasons described below.

Section 17A(b)(3)(F) of the Act requires that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible.¹⁵ FICC is proposing to revise a requirement in the GSD Rules to no longer restrict Inter-Dealer Broker Netting Members from using the same Deposit ID for the Required Fund Deposit Portions for their proprietary activity. The proposed change would permit these Netting Members to more efficiently make their required deposits to the Clearing Fund. By removing an unnecessary restriction and facilitating more efficient payments of margin requirements, FICC believes the proposed change would promote the prompt and accurate clearance and settlement of securities transactions and would assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.¹⁶

Rule 17ad-22(e)(21) under the Act requires FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient in meeting the requirements of its participants.¹⁷ As described above, the proposed changes would clarify that an existing requirement would not apply to Inter-Dealer Broker Netting Members with respect to the two Types of Accounts that such Members may maintain for their proprietary activity. By removing an unnecessary restriction and facilitating more efficient payments of margin requirements, FICC believes the proposed change is consistent with the requirements of Rule 17ad-22(e)(21) under the Act.¹⁸

¹³ 15 U.S.C. 78q-1(b)(3)(F).

¹⁴ 17 CFR 240.17ad-22(e)(21).

¹⁵ 15 U.S.C. 78q-1(b)(3)(F).

¹⁶ *Id.*

¹⁷ 17 CFR 240.17ad-22(e)(21).

¹⁸ *Id.*

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the proposed rule change would have an impact on competition among its Members.¹⁹ Inter-Dealer Broker Netting Members are the only types of Netting Members that are permitted to maintain both Broker Accounts and Dealer Accounts where their proprietary activity can be recorded. The proposed change would clarify an existing requirement that unnecessarily restricts these Members from making their Required Fund Deposit Portions for these Accounts using the same Deposit ID. The proposed change would not impact other Netting Members.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on *How to Submit a Comment*, available at www.sec.gov/rules-regulations/how-submit-comment. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

FICC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

¹⁹ 15 U.S.C. 78q-1(b)(3)(D).

¹¹ See *supra* note 7.

¹² See *supra* note 7.

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include file number SR-FICC-2025-013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.
- All submissions should refer to file number SR-FICC-2025-013. 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 FICC and on DTCC's website (<https://dtcc.com/legal/sec-rule-filings.aspx>). 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-FICC-2025-013 and should be submitted on or before June 6, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-08698 Filed 5-15-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103026; File No. SR-MEMX-2025-10]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule Concerning Equities Transaction Pricing

May 12, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that, on April 30, 2025, MEMX LLC ("MEMX" 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members³ (the "Fee Schedule") pursuant to Exchange Rules 15.1(a) and (c). As is further described below, the Exchange proposes to (i) reduce the rebate provided under Liquidity Provision Tier 1 for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange (such orders, "Added Displayed Volume"); (ii) modify the required criteria under Non-Display Add Tier 2; (iii) reduce the rebate provided under the Displayed Liquidity Incentive ("DLI") Tier 1; and (iv) eliminate the Liquidity Removal Tier. The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal immediately. The text of the

proposed rule change is provided in Exhibit 5.

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 Fee Schedule to: (i) reduce the rebate provided under Liquidity Provision Tier 1 for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange (such orders, "Added Displayed Volume"); (ii) modify the required criteria under Non-Display Add Tier 2; (iii) reduce the rebate provided under the Displayed Liquidity Incentive ("DLI") Tier 1; and (iv) eliminate the Liquidity Removal Tier.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 18 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 14.1% of the total market share of executed volume of equities trading.⁴ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 2.4% of the overall

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Rule 1.5(p).

⁴ Market share percentage calculated as of April 30, 2025. The Exchange receives and processes data made available through consolidated data feeds (*i.e.*, CTS and UTDF).

market share.⁵ The Exchange in particular operates a “Maker-Taker” model whereby it provides rebates to Members that add liquidity to the Exchange and charges fees to Members that remove liquidity from the Exchange. The Fee Schedule sets forth the standard rebates and fees applied per share for orders that add and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Reduced Rebate Under Liquidity Provision Tier 1

The Exchange currently provides a base rebate of \$0.0015 per share for executions of Added Displayed Volume.⁶ The Exchange also currently offers Liquidity Provision Tiers 1–5 under which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the corresponding required volume criteria for each such tier. The Exchange now proposes to modify Liquidity Provision Tier 1 by reducing the rebate provided under such tier. Currently, under Liquidity Provision Tier 1, the Exchange provides an enhanced rebate of \$0.0034 per share for executions of Added Displayed Volume for Members that qualify for such tier by either: (1) achieving an ADAV⁷ (excluding Retail Orders) that is equal to or greater than 0.40% of the TCV;⁸ or (2) achieving an ADAV that is equal to or greater than 0.30% of the TCV in securities priced at or above \$1.00 per share and a Non-Displayed ADAV⁹ that is equal to or

greater than 6,000,000 shares. The Exchange now proposes to reduce the rebate provided under Liquidity Provision Tier 1 for executions of Added Displayed Volume from \$0.0034 per share to \$0.0033 per share.¹⁰ The Exchange believes that the proposed rebate represents only a modest decrease from the current rebate provided under Liquidity Provision Tier 1 for executions of Added Displayed Volume. The purpose of reducing the enhanced rebate for executions of Added Displayed Volume under Liquidity Provision Tier 1 is for business and competitive reasons, as the Exchange believes the reduction of such rebate would decrease the Exchange’s expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange’s overall pricing philosophy of encouraging added displayed liquidity. The Exchange does not propose to change the required criteria for a Member to qualify for Liquidity Provision Tier 1 or the rebate provided under Liquidity Provision Tier 1 for executions of orders in securities priced below \$1.00 per share.

Modified Criteria Under Non-Display Add Tier 2

The Exchange currently offers Non-Display Add Tiers 1–2 under which a Member may receive an enhanced rebate for executions of Added Non-Displayed Volume in securities priced at or above \$1.00 per share by achieving the corresponding required volume criteria for each such tier. Currently, a Member qualifies for Non-Display Add Tier 2, and thus receives an enhanced rebate of \$0.0025 per share for executions of Added Non-Displayed Volume under such tier, by achieving a Non-Displayed ADAV that is equal to or greater than 1,000,000 shares.¹¹ The Exchange now proposes to modify Non-Display Add Tier 2 such that a Member would now qualify for such tier by achieving a Non-Displayed ADAV that is equal to or greater than 2,000,000 shares. The Exchange is not proposing to change the rebate provided under this

tier or the rebate provided under this tier for executions of orders in securities priced below \$1.00 per share.

The Exchange notes that currently, the Fee Schedule indicates that Members that qualify for Non-Display Add Tier 2 based on activity in a given month will also receive that associated Non-Display Add Tier 2 rebate during the following month. The Exchange wishes to keep this procedure intact, and as such, if a Member met the criteria to receive the enhanced rebate under Non-Display Add Tier 2 in April 2025 (*i.e.*, by achieving a Non-Displayed ADAV that is equal to or greater than 1,000,000 shares), the Exchange will provide the enhanced rebate of \$0.0025 per share for that Member’s qualifying executions in April 2025 and May 2025, regardless of whether the Member meets the newly increased criteria requiring a Non-Displayed ADAV that is equal to or greater than 2,000,000 shares during May 2025. If that same Member meets the newly proposed criteria under the Non-Displayed Add Tier 2 during the month of May 2025, it will also receive that rebate for its qualifying executions in the following month.

The tiered pricing structure for executions of Added Non-Displayed Volume under the Non-Display Add Tiers provides an incremental incentive for Members to strive for higher volume thresholds to receive higher enhanced rebates for such executions and, as such, is intended to encourage Members to maintain or increase their order flow, particularly in the form of liquidity-adding non-displayed volume, to the Exchange, thereby contributing to a deeper and more robust and well-balanced market ecosystem to the benefit of all Members and market participants.

Reduced Rebate Under DLI Tier 2

The Exchange currently offers DLI Tiers 1 and 2 under which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the corresponding required criteria for each such tier. The DLI Tiers are designed to encourage Members, through the provision of an enhanced rebate for executions of Added Displayed Volume, to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day (*i.e.*, through the applicable quoting requirement¹²) in a broad base

⁵ *Id.*

⁶ The base rebate for executions of Added Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description “Added displayed volume” with a Fee Code of “B”, “D” or “J”, as applicable, on execution reports.

⁷ As set forth on the Fee Schedule, “ADAV” means the average daily added volume calculated as the number of shares added per day, which is calculated on a monthly basis, and “Displayed ADAV” means ADAV with respect to displayed orders.

⁸ As set forth on the Fee Schedule, “TCV” means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

⁹ As set forth on the Fee Schedule, “Non-Displayed ADAV” means ADAV with respect to non-displayed orders (including orders subject to Display-Price Sliding that receive price

improvement when executed and Midpoint Peg orders).

¹⁰ The proposed pricing for Liquidity Provision Tier 1 is referred to by the Exchange on the Fee Schedule under the existing description “Added displayed volume, Liquidity Provision Tier 1” with a Fee Code of “B1”, “D1” or “J1”, as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

¹¹ The pricing for Non-Display Add Tier 2 is referred to by the Exchange on the Fee Schedule under the existing description “Added non-displayed volume, Non-Display Add Tier 2” with a Fee Code of “H2”, “M2” or “P2”, as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

¹² As set forth on the Fee Schedule, the term “quoting requirement” means the percentage of NBBO Time required under the relevant criteria, and the term “NBBO Time” means the aggregate of the percentage of time during regular trading hours during which one of a Member’s market participant

of securities (*i.e.*, through the applicable securities requirement¹³), thereby benefitting the Exchange and investors by providing improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the NBBO in a broad base of securities and committing capital to support the execution of orders.¹⁴ Now, the Exchange proposes to modify DLI Tier 1 by reducing the rebate for executions of Added Displayed Volume under such tier.

Currently, under DLI Tier 1, the Exchange provides an enhanced rebate of \$0.0034 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving an NBBO Time of at least 50% in an average of at least 1,000 securities per trading day during the month. The Exchange proposes to reduce the rebate provided under DLI Tier 1 for executions of Added Displayed Volume from \$0.0034 per share to \$0.0033 per share.¹⁵ The Exchange believes that the proposed rebate represents only a modest decrease from the current rebate provided under DLI Tier 1 for executions of Added Displayed Volume. The Exchange does not propose to change the required criteria for a Member to qualify for DLI Tier 1 or the rebate provided under DLI Tier 1 for executions of orders in securities priced below \$1.00 per share.

The purpose of reducing the enhanced rebate for executions of Added Displayed Volume under DLI Tier 1 is for business and competitive reasons, as the Exchange believes the reduction of such rebate would decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy

identifiers ("MPIDs") has a displayed order of at least one round lot at the national best bid or the national best offer.

¹³ As set forth on the Fee Schedule, the term "securities requirement" means the requirement that a Member meets the quoting requirement in the applicable number of securities per trading day. Currently, each of DLI Tiers 1 and 2 has a securities requirement that may be achieved by a Member meeting the quoting requirement in the specified number of securities traded on the Exchange.

¹⁴ See the Exchange's Fee Schedule (available at <https://info.memxtrading.com/fee-schedule/>) for additional details regarding the Exchange's DLI Tiers. See also Securities Exchange Act Release No. 92150 (June 10, 2021), 86 FR 32090 (June 16, 2021) (SR-MEMX-2021-07) (notice of filing and immediate effectiveness of fee changes adopted by the Exchange, including the adoption of DLI).

¹⁵ The proposed pricing for DLI Tier 1 is referred to by the Exchange on the Fee Schedule under the existing description "Added displayed volume, DLI Tier 1" with a Fee Code of "Bq1", "Dq1" or "Jq1", as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

of encouraging added displayed liquidity and promoting the price discovery and market quality objectives of the DLI Tiers described above.

Eliminate Liquidity Removal Tier

Finally, the Exchange proposes to eliminate the Liquidity Removal Tier. The Exchange currently charges a standard fee of \$0.0030 per share for executions of orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange (such orders, "Removed Volume"). The Exchange also currently offers Liquidity Removal Tier 1 under which qualifying Members are charged a discounted fee by achieving the corresponding required volume criteria for each such tier. Specifically, under Liquidity Removal Tier 1, the Exchange charges a reduced fee of \$0.0029 per share for executions of Removed Volume by achieving: (1) an ADV¹⁶ that is equal to or greater than 0.70% of the TCV and (2) a Remove ADV¹⁷ that is equal to or greater than 0.50% of the TCV. The Exchange now proposes to eliminate the Liquidity Removal Tier, as the incentive is not achieving the level of participation that the Exchange expected, and thus, is not accomplishing the goal that the Exchange had when initially adopting this incentive. The Exchange therefore no longer wishes to, nor is it required to, maintain such tier. More specifically, the proposed rule change removes such tier, as the Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁸ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,¹⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange operates in a highly fragmented and competitive market in which market participants can readily direct order flow to competing venues if they deem

fee levels at a particular venue to be excessive or incentives to be insufficient, and the Exchange represents only a small percentage of the overall market. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, 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."²⁰

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 use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct additional order flow, including displayed, non-displayed, liquidity-adding and/or NBBO setting orders, to the Exchange, which the Exchange believes would promote price discovery and enhance liquidity and market quality on the Exchange to the benefit of all Members and market participants.

The Exchange notes that volume and quoting-based incentives (such as tiers) have been widely adopted by exchanges, including the Exchange, and are reasonable, equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide additional benefits that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that the Liquidity Provision Tier 1, as modified by the proposed change to the rebate under such tier, the Non-Display Add Tier 2, as modified by the proposed change to the required

¹⁶ As set forth on the Fee Schedule, "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day, which is calculated on a monthly basis.

¹⁷ As set forth on the Fee Schedule, "Remove ADV" means ADV with respect to orders that remove liquidity.

¹⁸ 15 U.S.C. 78f.

¹⁹ 15 U.S.C. 78f(b)(4) and (5).

²⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

criteria under such tier, and DLI Tier 1, as modified by the proposed change to the rebate provided under such tier, are reasonable, equitable and not unfairly discriminatory for these same reasons, as such tiers would provide Members with an incremental incentive to achieve certain volume thresholds on the Exchange, are available to all Members on an equal basis, and, as described above, are designed to encourage Members to maintain or increase their order flow, including in the form of displayed, non-displayed, liquidity-adding and/or NBBO setting orders, to the Exchange in order to qualify for an enhanced rebate for executions of Added Displayed Volume or Added Non-Displayed Volume, as applicable, thereby contributing to a deeper, more liquid and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants. The Exchange also believes that such tiers reflect a reasonable and equitable allocation of fees and rebates, as the Exchange believes that the enhanced rebate for executions of Added Displayed Volume under the proposed modified Liquidity Provision Tier 1 and DLI Tier 1, as well as the enhanced rebate for executions of Non-Displayed volume under the proposed modified Non-Display Add Tier 2, each remains commensurate with the corresponding required criteria under each such tier and is reasonably related to the market quality benefits that each such tier is designed to achieve, as described above.

The Exchange believes the proposed rule change to eliminate the Liquidity Removal Tier is reasonable because the Exchange is not required to maintain such an incentive. The Exchange believes the proposal to eliminate such tier is also equitable and not unfairly discriminatory because it applies equally to all Members (*i.e.*, the tier will not be available for any Member). As noted above, the reduced fee offered under this tier is not affecting Members' behavior in that there are lower-than-expected levels of participation, and as such, the Exchange does not believe the proposed elimination of such tier will have a significant impact on any Member's trading behavior on the Exchange. Furthermore, the proposed rule change to eliminate the Liquidity Removal Tier enables the Exchange to redirect resources and funding into other pricing incentives and tiers intended to incentivize increased order flow and enhance market quality for all Members.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections

6(b)(4) and 6(b)(5) of the Act²¹ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed additive rebate described herein is appropriate to address such forces.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal is intended to incentivize market participants to direct additional order flow to the Exchange, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members and market participants. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."²²

Intramarket Competition

As discussed above, the Exchange believes that the proposal would maintain a tiered pricing structure that is still consistent with the Exchange's overall pricing philosophy of encouraging added, displayed and/or non-displayed liquidity and would incentivize market participants to direct additional order flow to the Exchange through volume-based tiers, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members, as well as enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send

additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The Exchange does not believe that the proposed changes would impose any burden on intramarket competition because such changes will incentivize members to submit additional order flow, thereby contributing to a more robust and well-balanced market ecosystem on the Exchange to the benefit of all Members as well as enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. The opportunity to qualify for the modified Liquidity Provision Tier 1, Non-Display Add Tier 2 and DLI Tier 1, and thus receive the corresponding enhanced rebates for executions of Added Displayed Volume or Added Non-Displayed Volume, as applicable, would be available to all Members that meet the associated volume requirements in any month. As described above, the Exchange believes that the required criteria under each such tier are commensurate with the corresponding rebate under such tier and are reasonably related to the enhanced liquidity and market quality that such tier is designed to promote. The Exchange does not believe that the proposed change to eliminate the Liquidity Removal Tier would impose any burden on intramarket competition because such changes will apply to all Members uniformly, as in, such incentive will no longer be available to any Member, and as described above, the Exchange does not believe the proposed elimination of such tier will have a significant impact on any Member's trading behavior on the Exchange. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

As noted above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. Members have numerous alternative venues that they may participate on and direct their order flow to, including 17 other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange

²¹ 15 U.S.C. 78f(b)(4) and (5).

²² See *supra* note 20.

currently has more than approximately 14.1% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, 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 to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market.

Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to executions of Added Displayed Volume and Added Non-Displayed Volume, and market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As described above, the proposed change is a competitive proposal through which the Exchange is seeking to generate additional revenue with respect to its transaction pricing and to encourage the submission of additional order flow to the Exchange through volume-based tiers which have been widely adopted by exchanges, including the Exchange. Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar incentives to market participants that enhance market quality and/or achieve certain quoting requirements.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, 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."²³ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. SEC*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing

agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."²⁴ Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act²⁵ and Rule 19b-4(f)(2)²⁶ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MEMX-2025-10 on the subject line.

²⁴ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁶ 17 CFR 240.19b-4(f)(2).

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-MEMX-2025-10. 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-MEMX-2025-10 and should be submitted on or before June 6, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-08699 Filed 5-15-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35580; 812-15736]

CAIS Sports, Media and Entertainment Fund and CAIS Advisors LLC

May 12, 2025.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

²⁷ 17 CFR 200.30-3(a)(12).

²³ See *supra* note 20.

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c-3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares and to impose early withdrawal charges and asset-based distribution and/or service fees.

APPLICANTS: CAIS Sports, Media and Entertainment Fund and CAIS Advisors LLC.

FILING DATES: The application was filed on March 28, 2025, and an amendment on April 4, 2025.

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. Hearing requests should be received by the Commission by 5:30 p.m. on June 6, 2025, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Clifford R. Cone, Esq., Clifford Chance US LLP, Two Manhattan West, 375 9th Avenue, New York, NY 10001, with copies to Michael Richman, Esq., CAIS Advisors LLC, 527 Madison Avenue, 12th Floor, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, 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, dated April 4, 2025, 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/edgar/searchedgar/companysearch>. 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. 2025-08716 Filed 5-15-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35583; File No. 812-15735]

T. Rowe Price OHA Select Private Credit Fund, et al.

May 13, 2025.

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: T. Rowe Price OHA Select Private Credit Fund, OHA Senior Private Lending Fund (U) LLC, T. Rowe Price OHA Flexible Credit Income Fund, OHA Private Credit Advisors LLC, OHA Private Credit Advisors II, L.P., Oak Hill Advisors, L.P., Oak Hill Advisors (Europe), LLP, OHA (UK) LLP, TRP OHA SPV Funding I, LLC, TRP OHA SPV Funding II, LLC, OCREDIT Investment S.à r.l., OCREDIT UNI Investment S.à r.l., ULEND Investment S.à r.l., OFLEX Investment S.à r.l., TRP OHA FCI SPV Funding I, LLC, TRP OHA FCI CA, LLC, and certain of their affiliated entities as described in Schedule A to the application.

FILING DATES: The application was filed on March 28, 2025, and amended on April 4, 2025 and May 7, 2025.

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. Hearing requests should be received by the Commission by 5:30 p.m. on June 9, 2025, 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: Gregory S. Rubin, Vice President, 1 Vanderbilt, 16th Floor, New York, New York 10017-3978; Richard Horowitz, Esq., Nadeea Zakaria, Esq., Dechert LLP, 1095 Avenue of the Americas, New York, NY 10036.

FOR FURTHER INFORMATION CONTACT: Adam Large, Senior Special Counsel, Jill Ehrlich, Senior Counsel, or Daniele Marchesani, Assistant Chief 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’ second amended application, dated May 7, 2025, 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/edgar/searchedgar/companysearch.html>. 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. 2025-08810 Filed 5-15-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE
COMMISSION

[Investment Company Act Release No.
35581; 812–15777]

The Advisors’ Inner Circle Fund III and
FS Fund Advisor, LLC

May 12, 2025.
AGENCY: Securities and Exchange
Commission (“Commission” or “SEC”).
ACTION: Notice.

Notice of an application under
Section 6(c) of the Investment Company
Act of 1940 (“Act”) for an exemption
from Section 15(c) of the Act.

SUMMARY OF APPLICATION: The requested
exemption would permit a Trust’s board
of trustees to approve new sub-advisory
agreements and material amendments to
existing sub-advisory agreements
without complying with the in-person
meeting requirement of Section 15(c) of
the Act.

APPLICANTS: The Advisors’ Inner Circle
Fund III and FS Fund Advisor, LLC.

FILING DATE: The application was filed
on May 2, 2025.

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. Hearing requests
should be received by the Commission
by 5:30 p.m. on June 6, 2025, and
should be accompanied by proof of
service on the Applicants, in the form
of an affidavit, or, for lawyers, a
certificate of service. Pursuant to rule 0–
5 under the Act, hearing requests should
state the nature of the writer’s interest,
any facts bearing upon the desirability
of a hearing on the matter, the reason for
the request, and the issues contested.
Persons who wish to be notified of a
hearing may request notification by
emailing the Commission’s Secretary.

ADDRESSES: The Commission:
Secretarys-Office@sec.gov. Applicants:
David W. Freese, Esq., Morgan, Lewis &
Bockius LLP, 2222 Market Street,
Philadelphia, Pennsylvania 19103, with
copies to Michael Beattie, c/o SEI
Investments, One Freedom Valley Drive,
Oaks, Pennsylvania 19456, and Michael
C. Forman, FS Fund Advisor, LLC, 201
Rouse Boulevard, Philadelphia, PA
19112.

FOR FURTHER INFORMATION CONTACT:
Trace W. Rakestraw, Senior Special
Counsel, at (202) 551–6825 (Division of
Investment Management, Chief
Counsel’s Office).

SUPPLEMENTARY INFORMATION: For
Applicants’ representations, legal
analysis, and conditions, please refer to
Applicants’ application, dated May 2,
2025, 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/edgar/searchedgar/
companysearch](https://www.sec.gov/edgar/searchedgar/companysearch). 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. 2025–08717 Filed 5–15–25; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21069 and #21070;
OKLAHOMA Disaster Number OK–20029]

Administrative Declaration of a
Disaster for the State of Oklahoma

AGENCY: U.S. Small Business
Administration.
ACTION: Notice.

SUMMARY: This is a notice of an
Administrative declaration of a disaster
for the State of Oklahoma dated May 12,
2025.

Incident: Severe Storms and Flooding.

DATES: Issued on May 12, 2025.

Incident Period: April 19, 2025, and
continuing.

*Physical Loan Application Deadline
Date:* July 11, 2025.

*Economic Injury (EIDL) Loan
Application Deadline Date:* February 12,
2026.

ADDRESSES: Visit the MySBA Loan
Portal at <https://lending.sba.gov> to
apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:
Sharon Henderson, Office of Disaster
Recovery & Resilience, U.S. Small
Business Administration, 409 3rd Street
SW, Suite 6050, Washington, DC 20416,
(202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is
hereby given that as a result of the
Administrator’s disaster declaration,
applications for disaster loans may be
submitted online using the MySBA

Loan Portal <https://lending.sba.gov> or
other locally announced locations.
Please contact the SBA disaster
assistance customer service center by
email at [disastercustomerservice@
sba.gov](mailto:disastercustomerservice@sba.gov) or by phone at 1–800–659–2955
for further assistance.

The following areas have been
determined to be adversely affected by
the disaster:

Primary Counties: Comanche.
Contiguous Counties:
Oklahoma: Caddo, Cotton, Grady,
Kiowa, Stephens, Tillman.
The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Avail- able Elsewhere	5.500
Homeowners without Credit Available Elsewhere	2.750
Businesses with Credit Avail- able Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.625
Non-Profit Organizations with- out Credit Available Else- where	3.625
<i>For Economic Injury:</i>	
Business and Small Agricul- tural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations with- out Credit Available Else- where	3.625

The number assigned to this disaster
for physical damage is 210696 and for
economic injury is 210700.

The State which received an EIDL
Declaration is Oklahoma.
(Catalog of Federal Domestic Assistance
Number 59008)

James Stallings,
*Associate Administrator, Office of Disaster
Recovery and Resilience.*

[FR Doc. 2025–08739 Filed 5–15–25; 8:45 am]
BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 12732]

Notice of Shipping Coordinating
Committee Meeting in Preparation for
International Maritime Organization
Maritime Safety Committee 110

The Department of State will conduct
a public meeting at 9:00 a.m. on
Wednesday, June 11, 2025, both in-
person at Coast Guard Headquarters in
Washington, DC, and via teleconference
through Microsoft Teams. The primary
purpose of the meeting is to prepare for
the 110th session of the International

Maritime Organization's (IMO) Maritime Safety Committee (MSC 11) to be held at the IMO Headquarters in London, United Kingdom from Wednesday, June 18, to Friday, June 27, 2025.

Members of the public may participate up to the capacity of the teleconference line, which can handle 500 participants or up to the seating capacity of the room if attending in-person. The meeting location will be the United States Coast Guard Headquarters, 5PS Conference Room, and the teleconference line will be provided to those who RSVP. To RSVP, participants should contact the meeting coordinator, LT Emily Sysko, by email at Emily.T.Sysko@uscg.mil. LT Sysko will provide access information for in-person and virtual attendance.

The agenda items to be considered at this meeting include:

- Adoption of the agenda; report on credentials
- Decisions of other IMO bodies
- Amendments to mandatory instruments
- Goal-based new ship construction standards
- Development of a goal-based instrument for maritime autonomous surface ships (MASS)
- Development of a safety regulatory framework to support the reduction of GHG emissions from ships using new technologies and alternative fuels
- Revision of the Guidelines on Maritime Cyber Risk Management (MSC-FAL.1/Circ.3/Rev.2) and identification of next steps to enhance maritime cybersecurity
- Measures to enhance maritime security
- Piracy and armed robbery against ships
- Unsafe mixed migration by sea
- Ship design and construction (Report of the eleventh session of the Sub-Committee)
- Pollution Prevention and Response (Report of the twelfth session of the Sub-Committee)
- Human element, training and watchkeeping (Report of the eleventh session of the Sub-Committee)
- Ship systems and equipment (Report of the eleventh session of the Sub-Committee)
- Navigation, communications and search and rescue (Urgent matters emanating from the twelfth session of the Sub-Committee)
- Carriage of cargoes and containers (Report of the tenth session of the Sub-Committee)
- Application of the Committee's method of work
- Work programme

- Election of Chair and Vice-Chair for 2026
- Any other business
- Consideration of the report of the Committee on its one hundred and tenth session

Please note: The IMO may, on short notice, adjust the MSC 110 agenda to accommodate the constraints associated with the virtual meeting format. Any changes to the agenda will be reported to those who RSVP.

Those who plan to participate should contact the meeting coordinator, LT Emily Sysko, by email at Emily.T.Sysko@uscg.mil, by phone at (202) 372-1376, or in writing at United States Coast Guard (CG-5PS), ATTN: LT Emily Sysko, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593-7509. Members of the public needing reasonable accommodation should advise LT Emily Sysko no later than no later than June 6th, 2025. Requests made after that date will be considered but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: <https://www.dco.uscg.mil/IMO>.

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

Leslie W. Hunt,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2025-08732 Filed 5-15-25; 8:45 am]

BILLING CODE 4710-09-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36853]

Star America Fund II GP, LLC (on Behalf of Star America Infrastructure Fund II, LP and Star America Infrastructure Fund II (Parallel), LP) and Star America Rail Holdco, LLC—Control Exemption—Belpre Industrial Parkersburg Railroad, LLC; Bucyrus Industrial Railroad, LLC; Cornhusker Railroad, LLC

Star America Fund II GP, LLC (on behalf of Star America Infrastructure Fund II, LP, and Star America Infrastructure Fund II (Parallel), LP) and Star America Rail Holdco, LLC (Star America Rail Holdco), all noncarriers (collectively, Applicants), have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to acquire control of Belpre Industrial Parkersburg Railroad, LLC (BIP), Bucyrus Industrial Railroad, LLC (BIR), and Cornhusker Railroad, LLC (CNRR), all Class III railroads.

According to the verified notice, Star America Rail Holdco¹ currently holds a non-controlling interest in Cathcart Rail Holdco, LLC (Cathcart Rail Holdco), a noncarrier, which owns Cathcart Rail, LLC, a noncarrier, which owns Cathcart Rail Services, LLC (Cathcart Rail Services), a noncarrier, which controls BIP, BIR, and CNRR. The verified notice states that, pursuant to an agreement,² Star America Rail Holdco has agreed to acquire a controlling interest in Cathcart Rail Holdco (and thus indirectly in BIP, BIR, and CNRR), via the purchase of additional shares in Cathcart Rail Holdco from Cathcart, Inc.³

Applicants state that: (1) the railroads would not connect with each other or any railroads in their corporate family; (2) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

The earliest this transaction may be consummated is June 1, 2025, the effective date of the exemption (30 days after the verified notice was filed).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of

¹ Star America Fund II GP, LLC (on behalf of Star America Infrastructure Fund II, LP, and Star America Infrastructure Fund II (Parallel), LP), controls Star America Rail Holdco.

² Public and confidential versions of the agreement were filed with the verified notice. The confidential version was submitted under seal concurrently with a motion for protective order, which will be addressed in a separate decision.

³ Applicants state that “[t]he presence of intermediate noncarrier holding companies (Cathcart Rail Holdco, Cathcart Rail, LLC, and Cathcart Rail Services, LLC) in the ‘chain of control’ does not implicate the Board’s authority or require authorization.” (Verified Notice 3 n.2 (citing *Hainesport Transp. Grp., LLC—Corp. Fam. Transaction Exemption*, FD 36184, slip op. at 1 (STB served May 24, 2018).)

the exemption. Petitions to stay must be filed by May 23, 2025.

All pleadings, referring to Docket No. FD 36853, 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 Applicants' representative, Amy Bohannon, Tikehau Capital, 9 West 57th Street, 45th Floor, New York, NY 10019.

According to Applicants, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 13, 2025.

By the Board, Valerie O. Quinn, Acting Director, Office of Proceedings.

Brendetta Jones,
Clearance Clerk.

[FR Doc. 2025-08799 Filed 5-15-25; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. WB 25-27]

Release of Waybill Data

The Surface Transportation Board has received a request from the University of Toronto, (WB25-27-05/07/25) for permission to use select data from the Board's 1990-2020 unmasked Carload Waybill Samples. A copy of this request may be obtained from the Board's website under docket no. WB25-27.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Any inquiries on this request should be directed to waybill@stb.gov.

Eden Besera,
Clearance Clerk.

[FR Doc. 2025-08800 Filed 5-15-25; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 34693 (Sub-No. 1)]

Kaw River Railroad, LLC—Lease Exemption With Interchange Commitment—BNSF Railway Company

Kaw River Railroad, LLC (KAW), a Class III railroad, filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease from BNSF Railway Company (BNSF) and operate 15.69 miles of rail line between milepost 199.86 at Kearney, Mo., and milepost 215.55 at Birmingham, Mo., and certain tracks in BNSF's Birmingham Yard, including Tracks 1501, 1502, 1503, 1504, 1547, 1550, 1555, 1560, 9955, and 9956, and the Ladder Track between Tracks 1504 and 1599, all of which are located in Clay County, Mo. KAW also seeks to retain incidental overhead trackage rights over approximately 1.21 miles of line, including over Track 1599, between milepost 216.18 and milepost 216.76 on BNSF's Kearney Subdivision and between BNSF mileposts 215.55 and 216.18, near Birmingham (collectively, the Lines).

According to KAW, it has leased the Lines from BNSF since 2005. *See Kaw River R.R.—Lease & Operation Exemption—BNSF Ry.*, FD 34693 (STB served May 12, 2005). KAW states that it has most recently entered into a lease amendment (Lease Amendment) with BNSF on August 1, 2024, to update and extend the terms governing KAW's continued operations and exercise of incidental trackage rights. According to the verified notice, KAW intends to consummate the proposed transaction upon the effectiveness of the exemption. KAW states that it has been the exclusive operator over the line for more than 19 years.

KAW certifies that the Lease Amendment contains an interchange commitment.¹ Accordingly, KAW has provided additional information regarding the interchange commitment, as required by 49 CFR 1150.43(h).

KAW certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier but 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, KAW has contemporaneously filed a request for waiver of the 60-day advance labor notice requirements. KAW'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 May 23, 2025.

All pleadings, referring to Docket No. FD 34693 (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 KAW's representative, Stephen J. Foland, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to KAW, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 9, 2025.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,
Clearance Clerk.

[FR Doc. 2025-08687 Filed 5-15-25; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 35015 (Sub-No. 1)]

Kaw River Railroad, LLC—Lease Exemption With Interchange Commitment—BNSF Railway Company

Kaw River Railroad, LLC (KAW), a Class III railroad, filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease from BNSF Railway Company (BNSF) and operate 14.66 miles of rail line consisting of Tracks 1601 through 1605, including Lead Tracks 1 through 10 (diverging from Track 1606), and Track 1606 starting at the west end from the clearance point on the switch diverging from Track 1502 (the Bedford Yard Lines), all located in North Kansas City, Clay County, Mo.

¹ A copy of the Lease Amendment with the interchange commitment was submitted under seal. *See* 49 CFR 1150.43(h)(1).

Kaw also seeks to continue to exercise incidental trackage rights over BNSF's 1.52-mile line between Bedford Yard and the Kansas City Southern Railway (KCSR) track leading into KCSR's Knoche Yard, via the ASB Bridge, also in North Kansas City.

According to KAW, it has leased the Bedford Yard Lines since 2007. *See Kaw River R.R.—Lease & Operation Exemption—BNSF Ry.*, FD 35015 (STB served Apr. 20, 2007). KAW states that it entered into an agreement (Agreement) with BNSF dated December 19, 2020, and amended on January 1, 2021, and August 1, 2024, renewing and extending their existing arrangement for KAW's lease and operation of the Bedford Yard Lines through November 30, 2030, and providing for KAW's continued exercise of trackage rights incidental to the lease transaction. According to the verified notice, KAW intends to consummate the proposed transaction upon the effectiveness of the exemption. KAW states that it will continue to provide common carrier freight service to all freight shippers located along the Bedford Yard Lines.

KAW certifies that the Agreement contains an interchange commitment.¹ Accordingly, KAW has provided additional information regarding the interchange commitment, as required by 49 CFR 1150.43(h).

KAW certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier but 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, KAW has contemporaneously filed a request for waiver of the 60-day advance labor notice requirements. KAW'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 May 23, 2025.

All pleadings, referring to Docket No. FD 35015 (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 KAW's representative, Stephen J. Foland, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to KAW, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 9, 2025.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,
Clearance Clerk.

[FR Doc. 2025-08690 Filed 5-15-25; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36855]

3i RR Holdings GP LLC, 3i RR Holdings Partnership L.P., 3i RR Intermediate Holdings LLC, 3i RR LLC, Regional Rail Holdings, LLC, Regional Rail Sub Holdings LLC, and Regional Rail, LLC—Control Exemption—Minnesota Commercial Railway Co.

3i RR Holdings GP LLC, 3i RR Holdings Partnership L.P., 3i RR Intermediate Holdings LLC, 3i RR LLC, Regional Rail Holdings, LLC, and Regional Rail Sub Holdings LLC (collectively, 3i RR) and Regional Rail, LLC (Regional Rail), each a noncarrier, have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to acquire control of Minnesota Commercial Railway Company (MNNR). MNNR is a Class III rail carrier that owns, leases, or operates approximately 86 miles of rail line in and around the Twin Cities of Minneapolis and St. Paul, Minn.¹

According to the verified notice, Regional Rail is directly controlled by Regional Rail Sub Holdings LLC, which is controlled by Regional Rail Holdings, LLC, which is controlled by 3i RR LLC, which is controlled by 3i RR Intermediate Holdings LLC, which is controlled by 3i RR Holdings

Partnership L.P., which is controlled by 3i RR Holdings GP LLC. The verified notice states that Regional Rail is a noncarrier holding company that directly controls 13 Class III rail carriers in the eastern United States.²

Pursuant to a stock purchase agreement, Regional Rail proposes to acquire all the existing equity interest of MNNR and assume direct control of that carrier.³ 3i RR would assume indirect control of MNNR. The verified notice further states that no significant changes in the rail services currently provided by MNNR are anticipated as a result of the proposed transaction and that the agreement does not include any provision that would limit the future interchange of traffic with a third-party connecting carrier.

3i RR and Regional Rail represent that: (1) the rail lines of MNNR do not connect with the lines of the rail carriers currently controlled by 3i RR and Regional Rail; (2) this control transaction is not part of a series of anticipated transactions that would result in such a connection; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

This transaction may be consummated on or after June 1, 2025, the effective date of the exemption (30 days after the verified notice was filed).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption

² Those carriers, and the states in which they operate, are: (1) Carolina Coastal Railway, Inc. (North Carolina and South Carolina); (2) Cincinnati Eastern Railroad LLC (Ohio); (3) East Penn Railroad, LLC (Delaware and Pennsylvania); (4) Effingham Railroad Company (Illinois); (5) Florida Central Railroad Company, Inc. (Florida); (6) Florida Midland Railroad Company, Inc. (Florida); (7) Florida Northern Railroad Company, Inc. (Florida); (8) Illinois Western Railroad Company (Illinois); (9) Indiana Eastern Railroad, LLC (Indiana); (10) Middletown & New Jersey Railroad, LLC (New York); (11) Port Manatee Railroad LLC (Florida); (12) South Point & Ohio Railroad, Inc. (Ohio); (13) Tyburn Railroad LLC (Pennsylvania).

³ Public and confidential versions of the agreement were filed with the verified notice. The confidential version was submitted under seal concurrent with a motion for protective order, which is addressed in a separate decision.

¹ A copy of the Agreement with the interchange commitment was submitted under seal. *See* 49 CFR 1150.43(h)(1).

¹ MNNR is currently controlled by The Rebecca G. Gohmann Trust.

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 May 23, 2025.

All pleadings, referring to Docket No. FD 36855, 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, one copy of each pleading must be served on 3i RR's and Regional Rail's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to 3i RR and Regional Rail, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 9, 2025.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,
Clearance Clerk.

[FR Doc. 2025-08692 Filed 5-15-25; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36832]

Union Pacific Railroad Company— Temporary Trackage Rights Exemption—BNSF Railway Company

Union Pacific Railroad Company (UP), a Class I railroad, has filed a verified notice of exemption under 49 CFR 1180.2(d)(8) for the acquisition of temporary overhead trackage rights over an approximately 51.7-mile rail line of BNSF Railway Company (BNSF) between milepost 579.3 on BNSF's Creek Subdivision near Mill Creek, Okla., and milepost 631.0 on BNSF's Madill Subdivision near Joe Junction, Tex., pursuant to the terms of a written temporary trackage rights agreement dated December 31, 2024 (Agreement).¹

UP states that the sole purpose of the temporary trackage rights is to allow UP to move loaded and empty unit ballast trains, which will be used solely for UP maintenance-of-way projects. UP states that the temporary trackage rights will expire on December 31, 2025.

The transaction may be consummated on or after May 30, 2025, the effective

date of the exemption (30 days after the verified notice was filed).

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

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 May 23, 2025 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36832, 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 UP's representative, Jennifer L. Galer, Union Pacific Railroad Company, 1400 Douglas Street, Stop 1580, Omaha, NE 68179.

According to UP, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 9, 2025.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Zantori Dickerson,
Clearance Clerk.

[FR Doc. 2025-08531 Filed 5-15-25; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2025-0377]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Organization Designation Authorization

AGENCY: Federal Aviation Administration (FAA), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 10, 2025. This collection involves organizations applying to perform certification functions on behalf of the FAA, including approving data and issuing various aircraft and organization certificates. The information will be used to determine an applicant's qualifications to perform functions as a representative of the FAA Administrator and to authorize organizations to perform those functions.

DATES: Written comments should be submitted by June 16, 2025.

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: Scott Geddie, Manager, Policy and Oversight Integration Section (AVS-64), telephone (405) 954-6897; scott.geddie@faa.gov.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

¹ A copy of the Agreement was attached as an exhibit to the verified notice.

OMB Control Number: 2120–0704.

Title: Organization Designation Authorization.

Form Numbers: FAA Form 8100–13.

Type of Review: Extension without change of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 10, 2025 (90 FR 11641). No comments were received. Title 49, United States Code, Section 44702(d) authorizes the Administrator of the Federal Aviation Administration to delegate to any properly qualified private person functions related to the examination, inspection, and testing necessary to the issuance of certificates. Title 14 of Code of Federal Regulations (CFR) part 183, subpart D allows the FAA to appoint organizations as Administrator representatives. As authorized, these organizations perform certification functions on behalf of the FAA. Applications include information about the applicant, the applicant's experience and qualifications, and the authority it seeks. Applications are submitted to the appropriate FAA office and are reviewed to determine whether the applicant meets the requirements necessary to be authorized as a representative of the Administrator. Procedures manuals are submitted for applications that are accepted by the FAA and contain the applicant's proposed procedures to be approved by the FAA to ensure that the correct processes are utilized when performing functions on behalf of the FAA as required by part 183, subpart D. These requirements are necessary to manage the various approvals issued by the organization and to document approvals issued, and these requirements must be maintained to address potential future safety issues.

Respondents: This collection involves organizations applying to perform certification functions on behalf of the FAA.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 43.5 hours.

Estimated Total Annual Burden: 5,623 hours.

Scott A. Geddie,

Manager, AVS–64, Policy and Oversight Integration Section, AVS ODA Office.

[FR Doc. 2025–08793 Filed 5–15–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final State Agency Actions on Proposed Transportation Project in Arizona

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review.

SUMMARY: The FHWA, on behalf of the Arizona Department of Transportation (ADOT), is issuing this notice to announce actions taken by ADOT and other relevant Federal agencies that are final agency actions. The actions relate to the proposed project City of Douglas New Commercial Land Port of Entry Connector Road Study in Cochise County, Arizona (AZ).

DATES: By this notice, the FHWA, on behalf of ADOT, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the listed highway project will be barred unless the claim is filed on or before October 14, 2025. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

ADDRESSES: The Environmental Assessment, Finding of No Significant Impact, and additional project documents can be viewed and downloaded from the project website at <https://azdot.gov/planning/transportation-studies/douglas-international-commercial-port-entry-connector-road-study/public-hearing-info-docs> or by contacting ADOT Environmental Planning, 205 S 17th Avenue, MD EM02, Phoenix, Arizona 85007, during normal business hours 8:00 a.m. to 4:30 p.m. (Mountain Standard Time), Monday through Friday, except State holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Olmsted, NEPA Assignment Manager, Environment Planning, Arizona Department of Transportation, telephone: (480) 202–6050, email: solmsted@azdot.gov.

You may also contact: Mr. Paul O'Brien, Environmental Planning Administrator, Arizona Department of Transportation, telephone: (480) 356–2893, email: POBrien@azdot.gov.

SUPPLEMENTARY INFORMATION: Effective April 16, 2019, and as subsequently renewed on June 25, 2024, the FHWA assigned, and ADOT assumed, environmental responsibilities for this

project pursuant to 23 U.S.C. 327. Notice is hereby given that ADOT and other relevant Federal agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, or approvals for the proposed improvement highway project. The actions by ADOT and other Federal agencies on the project, and the laws under which such actions were taken are described in the Environmental Assessment and Finding of No Significant Impact approved on April 1, 2025, and in other project records for the listed project. The Environmental Assessment, Finding of No Significant Impact, and other project records are available by contacting ADOT at the addresses provided above.

The Project subject to this notice is: City of Douglas New Commercial Land Port of Entry Connector Road Study in Cochise County, Arizona.

Project Location: The project limits will be located approximately 4.5 miles west of the existing Raul Hector Castro IPOE in Douglas, Arizona.

Project Actions: This notice applies to the Environmental Assessment, Finding of No Significant Impact, and all other Federal agency licenses, permits, or approvals for the listed project as of the issuance date of this notice including all laws under which such were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321 *et seq.*]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128]; 23 CFR part 771.

2. *Air:* Clean Air Act (CAA) [42 U.S.C. 7401–7671(q)], with the exception of project level conformity determinations [42 U.S.C. 7506].

3. *Noise:* Noise Control Act of 1972 [42 U.S.C. 4901–4918]; 23 CFR part 772.

4. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303]; 23 CFR part 774; Land and Water Conservation Fund (LWCF) [54 U.S.C. 200302–200310].

5. *Wildlife:* Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and 1536]; Marine Mammal Protection Act [16 U.S.C. 1361–1423h], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(f)]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act (MBTA) [16 U.S.C. 703–712]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801–1891d], with Essential Fish Habitat requirements [16 U.S.C. 1855(b)(2)].

6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 3006101 *et seq.*];

Archaeological Resources Protection Act of 1979 (ARPA) [16 U.S.C. 470(aa)–470(ii)]; Preservation of Historical and Archaeological Data [54 U.S.C. 312501–312508]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013; 18 U.S.C. 1170].

7. *Social and Economic*: Civil Rights Act of 1964 [42 U.S.C. 2000d–2000d–1]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

8. *Wetlands and Water Resources*: Clean Water Act (Section 319, Section 401, Section 404) [33 U.S.C. 1251–1387]; Coastal Barriers Resources Act (CBRA) [16 U.S.C. 3501–3510]; Coastal Zone Management Act (CZMA) [16 U.S.C. 1451–1466]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300f–300j–26]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation, [23 U.S.C. 119(g) and 133(b)(3)]; Flood Disaster Protection Act [42 U.S.C. 4001–4130].

9. *Hazardous Materials*: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

10. *Executive Orders*: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 139(l)(1)).

Issued on: May 12, 2025.

Anthony Sarhan,

Deputy Division Administrator, Federal Highway Administration.

[FR Doc. 2025–08731 Filed 5–15–25; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2025–0006]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) to approve a new information collection. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by June 16, 2025.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0006 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to <https://www.regulations.gov>.

Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Karen Holmes, Office of Administration, Federal Highway Administration, Department of Transportation, (304) 964–3234 or via email at karen.holmes@dot.gov. Office hours are from 7 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We published a **Federal Register** Notice with a 60-day public comment period on this information collection on December 2, 2024, at 89 FR 95347. The notice received no comments.

Title: Federal Highway Administration (FHWA) Performance Progress Report (PPR) form.

Background: FHWA is administering over 40 competitive grant and cooperative agreement programs,

including those established under the Infrastructure Investment and Jobs Act (November 15, 2021, Pub. L. 117–58) and the Inflation Reduction Act, 2022 (August 16, 2022, Pub. L. 117–169). The Uniform Administrative Requirements in 2 CFR part 200 require recipients of Federal financial assistance awards to monitor activities under Federal awards to ensure compliance with applicable Federal requirements and performance expectations are being achieved. In addition, the regulations require Federal awarding agencies, such as FHWA, to use OMB-approved common information collections. The FHWA PPR form will be used by recipients of FHWA grant awards and cooperative agreements to report performance and progress of a Federal financial assistance-funded construction or non-construction project.

Respondents: Recipients of a competitive grant or cooperative agreement award administered by FHWA. Competitive grant or cooperative agreement recipients include but are not limited to State DOTs as defined in 23 U.S.C. 101, U.S. Territories, federally recognized Tribes, and other entities identified as eligible for Federal financial assistance from FHWA.

Frequency: The information will be collected quarterly, semiannually, or annually, as required by the Notice of Funding Opportunity (NOFO) for the grant program.

Estimated Average Burden per Response: 1 hour per respondent per form per grant or cooperative agreement award. This includes time to review the form instructions, research existing sources to gather necessary data, complete and review the form before submitting to FHWA.

Estimated Total Annual Burden Hours: It is expected that approximately 2,500 respondents will complete up to 4 PPR forms for a up to 10 grant awards per respondent for an estimated total of 100,000 annual burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on May 13, 2025.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2025–08806 Filed 5–15–25; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2025–0012]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) summarized below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On March 12, 2025, FRA published a notice providing a 60-day period for public comment on the ICR. FRA received no comments in response to the notice.

DATES: Interested persons are invited to submit comments on or before June 16, 2025.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find the particular ICR by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: arlette.mussington@dot.gov or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: joanne.swafford@dot.gov or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8

through 1320.12. On March 12, 2025, FRA published a 60-day notice in the **Federal Register** soliciting public comment on the ICR for which it is now seeking OMB approval. See 90 FR 11873. FRA has received no comments related to the proposed collection of information.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days’ notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. The 30-day notice informs the regulated community of their opportunity to file relevant comments and affords the agency adequate time to consider public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA’s estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Control of Alcohol and Drug use in Railroad Operations.

OMB Control Number: 2130–0526.

Abstract: This ICR covers information collected pursuant to FRA regulations at 49 CFR part 219—Control of Alcohol and Drug Use. FRA and the railroad industry use the information collected to improve railroad safety through the detection and deterrence of alcohol and illicit drug use by railroad or contractor employees who meet the definition of “regulated employee” in § 219.5.¹ For

example, FRA uses the information collected to ensure that regulated employees are subject to a random alcohol and drug testing program in which each employee has a reasonable expectation of being tested at any time while on duty. This information collection also covers on-duty railroad or contractor employees involved in a train incident who die within 12 hours of the incident due to the operation of on-track equipment, regardless of whether the employee was performing regulated service at the time. Information is also collected regarding foreign-railroads’ foreign-based employees who perform train or dispatching service in the United States.

Type of Request: Extension without change (with changes in estimates) of a currently approved collection.

Affected Public: Railroads.

Form(s): FRA F 6180.73; 6180.74; 6180.75.

Respondent Universe: 745² railroads (includes 2 foreign-based railroads); 2,600 regulated contractors; and 160,822 regulated employees.

Frequency of Submission: On occasion.

Estimated Annual Responses: 456,302.

Total Estimated Annual Burden: 2,674 Hours.

Total Estimated Burden Hour Dollar Cost Equivalent: \$238,317.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,

Deputy Chief Counsel.

[FR Doc. 2025–08798 Filed 5–15–25; 8:45 am]

BILLING CODE 4910–06–P

the scope of its alcohol and drug regulation to cover “all employees of railroad carriers who perform mechanical activities.” 87 FR 5719 and 5724. The definition of “regulated employees” also includes railroad and contractor employees who are “roadway workers” (as defined in 49 CFR 214.7) or who perform covered services under the hours of service laws (49 U.S.C. 21101, 21104, or 21105).

² In the previously published 60-day notice, 90 FR 11873, the respondent universe reflected 654 railroads. In this 30-day notice FRA has made a correction to show 745 railroads for the respondent universe.

¹ On February 2, 2022, as mandated by the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, FRA published a final rule that revised the definition of “regulated employee” to include a “MECH employee”, thereby expanding

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****[Docket No. FRA–2025–0013]****Proposed Agency Information Collection Activities; Comment Request**

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) summarized below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On March 12, 2025, FRA published a notice providing a 60-day period for public comment on the ICR. FRA received no comments in response to the notice.

DATES: Interested persons are invited to submit comments on or before June 16, 2025.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find the particular ICR by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: arlette.mussington@dot.gov or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: joanne.swafford@dot.gov or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On March 12, 2025, FRA published a 60-day notice in the **Federal Register** soliciting public comment on the ICR for which it is now seeking OMB approval. See 90 FR 11872. FRA has received no comments related to the proposed collection of information.

Before OMB decides whether to approve this proposed collection of

information, it must provide 30 days’ notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983 (Aug. 29, 1995). The 30-day notice informs the regulated community of their opportunity to file relevant comments and affords the agency adequate time to consider public comments before it renders a decision. 60 FR 44983 (Aug. 29, 1995). Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA’s estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Railroad Signal System Requirements.

OMB Control Number: 2130–0006.

Abstract: The information collected under 49 CFR parts 233, 235, and 236 is used by FRA to monitor railroad compliance with FRA’s inspection and testing requirements for signal systems, as well as to review and approve railroad requests to discontinue or materially modify existing signal systems. The information collected is also used by FRA to monitor signal failures (e.g., failure of a signal appliance, device, method, or system to function or display an indication as required by 49 CFR part 236 that results in a more favorable aspect than intended or other condition hazardous to the movement of a train).

Type of Request: Extension without change (with changes in estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): FRA F 6180.14.

Respondent Universe: 150¹ railroads.

¹ In this submission, a recent FRA data collection shows approximately 150 railroads, with wayside

Total Estimated Annual Responses: 943,444.

Total Estimated Annual Burden: 221,312 hours.

Total Estimated Annual Dollar Cost Equivalent: \$15,467,984.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,
Deputy Chief Counsel.

[FR Doc. 2025–08792 Filed 5–15–25; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****[Docket No. FRA–2024–0016]****Proposed Agency Information Collection Activities; Comment Request**

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) summarized below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On March 10, 2025, FRA published a notice providing a 60-day period for public comment on the ICR. FRA received no comments in response to the 60-day notice.

DATES: Interested persons are invited to submit comments on or before June 16, 2025.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find the particular ICR by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information

signaling systems, that must comply with 49 CFR 233.5 and 233.7. When FRA last published a notice in connection with its submission of this ICR (OMB control number 2130–0006), on October 22, 2021, at 86 FR 58722, that notice was based on a Respondent Universe of 754 railroads.

Collection Clearance Officer, at email: arlette.mussington@dot.gov or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: joanne.swafford@dot.gov or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On March 10, 2025, FRA published a 60-day notice in the **Federal Register** soliciting public comment on the ICR for which it is now seeking OMB approval. See 90 FR 11644. FRA has received no comment related to the proposed collection of information.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days' notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. The 30-day notice informs the regulated community of their opportunity to file relevant comments and affords the agency adequate time to consider public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Please note this ICR is a reinstatement request, because the expected date to publish the 30-day notice in the **Federal Register** will occur after the prior ICR approval has expired.

Comments are invited on this ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Railroad Locomotive Safety Standards and Event Recorders.

OMB Control Number: 2130–0004.

Abstract: This notice includes revisions to a currently approved ICR for the Railroad Locomotive Safety Standards (LSS), and revisions to existing OMB Form FRA F 6180.49A, Locomotive Inspection and Repair Record. The LSS (49 CFR part 229) require locomotives and their appurtenances to be in proper condition and safe to operate in the service to which they are put and include specific inspection, repair, and maintenance requirements. Locomotive inspection, repair, and maintenance records are used to help ensure locomotives are safe to operate. Form FRA F 6180.49A is the main record used to collect required information from inspection, maintenance, and testing of each locomotive. The LSS also require collection of event recorder data. The data gathered from locomotive event recorders is used by the railroad industry to improve train handling and promote the safe and efficient operation of trains throughout the country. Locomotive event recorders also provide FRA and State railroad safety inspectors with verified data elements for use in their oversight responsibilities that show how trains are operated from lead locomotives.

Type of Request: Revision of a currently approved collection.

Affected Public: Railroads.

Form(s): FRA F 6180.49A.

Respondent Universe: 745 railroads.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 8,913,163.¹

Total Estimated Annual Burden: 245,200 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$21,109,300.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,
Deputy Chief Counsel.

[FR Doc. 2025–08794 Filed 5–15–25; 8:45 am]

BILLING CODE 4910–06–P

¹ FRA has corrected the number of responses published in the Abstract of the 60-day notice. The published 60-day notice (90 FR 11644) currently reflects the Total Estimated Annual Responses as 8,913,1634. In this 30-day notice, FRA has made the adjustment in the Abstract to show the correct Total Estimated Annual Responses as 8,913,163.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2025–0021]

Agency Information Collection Activities; Notice and Request for Comment; Drivers' Use of Camera-Based Rear Visibility Systems Versus Traditional Mirrors

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on revision of a currently approved collection of information.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for an extension of a currently approved 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 for which NHTSA intends to seek a revision to an OMB-approved collection titled “Drivers' Use of Camera-Based Rear Visibility Systems Versus Traditional Mirrors” identified by OMB Control Number 2127–0756. The collection is currently approved through July 31, 2025, and supports research addressing safety-related aspects of drivers' use of camera-based rear visibility systems designed to replace or supplement vehicle rearview mirrors. This collection is necessary to inform next steps on an advance notice of proposed rulemaking (ANPRM) NHTSA published in response to two petitions requesting revision of FMVSS No. 111 to permit such camera-based systems as an alternative compliance option for certain current requirements specifying rearview mirrors. This revision includes changes in respondents and thus a change in burden hours and requests an extension to continue data collection.

DATES: Comments must be received on or before July 15, 2025.

ADDRESSES: You may submit comments identified by the docket number in the heading of this document or by any of the following methods:

• *Federal eRulemaking Portal*: Go to <https://www.regulations.gov>. Follow the instructions for submitting comments on the electronic docket site by clicking on “Help” or “FAQ”.

• *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: Each submission must include the Agency name and the Docket number for this Notice. Note that all comments received will be posted without change to www.regulations.gov, including any personal information provided. Please see the Privacy heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). 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.dot.gov/privacy.html>.

Docket: For access to the docket to read comments received, go to <https://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Elizabeth Mazzae, Applied Crash Avoidance Research Division, Vehicle Research and Test Center, NHTSA, 10820 State Route 347—Bldg. 60, East Liberty, Ohio 43319; Telephone (937) 666–4511; Facsimile: (937) 666–3590; email address: elizabeth.mazzae@dot.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), 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: (i) Whether the proposed collection of information is necessary for the proper

performance of the functions of the agency, including whether the information will have practical utility; (ii) the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) how to enhance the quality, utility, and clarity of the information to be collected; (iv) 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:

Title: Drivers’ Use of Camera-Based Rear Visibility Systems Versus Traditional Mirrors.

OMB Control Number: 2127–0756.

Form Numbers: NHTSA forms 1553, 1554, 2044, 1556, 1557, 1558.

Type of Request: Revision of a currently approved information collection.

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 is a revision of a currently approved information collection, OMB Control Number 2127–0756, “Drivers’ Use of Camera-Based Rear Visibility Systems Versus Traditional Mirrors.” NHTSA is conducting research as part of a multiyear effort to gather information to aid in determining whether camera-based rear visibility systems can provide the same level of safety as the rearview mirrors currently required under FMVSS No. 111, Rear Visibility. NHTSA published an ANPRM (RIN 2127–AM02) responding to two petitions received from vehicle manufacturers seeking permission to install camera-based rear visibility systems (sometimes referred to as camera monitor systems, CMS), instead of outside rearview mirrors, on both light vehicles and heavy trucks. In the ANPRM, NHTSA outlined a list of issues and related questions “on which the agency requests additional information to adequately evaluate the safety of permitting CMS as an alternative compliance option to rearview mirrors.”¹ This research will help answer important safety questions

posed in the ANPRM and inform NHTSA’s response to the petitions by aiding in determining whether CMS can provide at least the same level of safety as the currently required mirrors.

The research examines the use of camera-based visibility systems versus rearview mirrors for both light vehicles and heavy trucks. Research participants are volunteers who are members of the general public, who are licensed car and/or commercial truck drivers aged 25 to 65, and who are healthy and able to drive without assistive devices. Research participants experience a vehicle equipped with a production or prototype camera-based visibility system and/or an FMVSS No. 111-compliant rearview mirror system. The research uses stationary, track-based, and on-road, semi-naturalistic driving experimentation as a means of collecting data needed to support the rulemaking effort. Experimental data collection includes variables pertaining to driver eye glance behavior and driving performance. This collection provides flexibility to collect additional information to address critical research questions raised during the course of this research that are deemed necessary to support rulemaking.

This is a revision of a currently approved information collection (IC) to extend the approval period, adjust the number of respondents annually, and revise the burden calculations based on data collection completed as of March 14, 2025. The currently approved collection permitted 200 respondents annually across multiple complementary studies within the research taking place over the original approved period. In this extension request, NHTSA is requesting 156 respondents annually over the three-year approval period. This notice provides changes from the current collection to this revision in the number of respondents for some individual ICs, the time for completion of some individual ICs, wages, and federal wage rates. Additionally, NHTSA has included contractor costs that were unintentionally excluded from the original collection.

Description of the Need for the Information and Proposed Use of the Information: The National Highway Traffic Safety Administration’s (NHTSA) mission is to save lives, prevent injuries, and reduce economic costs associated with motor vehicle crashes. As new vehicle technologies are developed, it is prudent to ensure that they do not create any unintended decrease in safety. The safety of passive camera-based visibility technologies depends on both the performance of the

¹ 84 FR 54533. Docket No. NHTSA–2018–0021. Federal Motor Vehicle Safety Standard No. 111, Rear Visibility; Advance notice of proposed rulemaking (ANPRM).

systems and on drivers' ability to use the systems effectively and comfortably. Information regarding this safety question is needed to aid NHTSA's rulemaking activities (RIN 2127-AM02) responding to two petitions received from vehicle manufacturers seeking permission to install camera-based systems, instead of outside rearview mirrors, as a means of meeting certain FMVSS No. 111 rear visibility requirements on both light vehicles and heavy trucks. This work seeks to examine and compare drivers' eye glance behavior and aspects of driving performance with rearview mirrors and camera-based systems intended to replace or supplement rearview mirrors. The full information collection request includes six information collections:

1. *Interest Response Form* determines individuals' willingness to participate in the study and their initial suitability for study participation based primarily on demographics and driving qualifications (e.g., annual mileage driven).

2. *Candidate Screening Questions* are primarily used to ensure that participants meet driving record requirements of the contractor's insurance company, are free of recent criminal convictions, meet specific minimum health qualifications, and have reasonable availability to participate in the study. Health screening questions aim to identify candidate participants whose physical and health conditions and driving experience may be deemed generally "average" and to determine if they can understand study documents.

a. Have no more than 2 points on current driving record.

b. Have no criminal convictions in the past 3 years, including criminal driving offenses.

c. Have no uncorrected vision or hearing problems.

d. Are in good general health and able to drive continuously and safely for a period of 3 hours without the need for assistive devices.

e. Self-report that they are able to read, write, speak, and understand English.

f. Are willing to drive to NHTSA's Vehicle Research and Test Center and spend up to approximately 4 hours participating in a research study.

3. *Experimental Data Collection* includes a pre-briefing (consisting of a greeting, *Participant Informed Consent Form* administration, and presentation of experimental protocol instructions) and data collection via stationary, track-based, and on-road, semi-naturalistic driving experimentation. Participants' eye glance behavior and driving and/or other performance data are recorded for later analysis that will compare these data for rearview mirrors versus CMS.

4. *Post-Drive Questionnaire: Drive with Camera Monitor System* gathers information about participants' experiences during the experimental protocol when using a CMS.

5. *Post-Drive Questionnaire: Drive with Traditional Mirrors* gathers information about participants' experiences during the experimental protocol when using mirrors.

6. *Post-Drive Questionnaire Final Opinions* gathers information about participants' opinions regarding preference for using CMS or mirrors, as well as assessing specific, open-ended opinions regarding CMS ease of use and perceived safety.

Affected Public: Research participants are paid volunteers from the Columbus, OH, regional area who are licensed drivers aged 25–65 years (inclusive), who drive at least an average number of miles (e.g., 11,000) annually, are in good

health and do not require assistive devices to safely operate a vehicle, and can drive continuously for a period of up to 3 hours.

Estimated Number of Respondents: Candidate participant recruitment information is collected in an incremental fashion to permit the determination of which individuals meet the criteria for research participation. All interested candidates (estimate: 792) complete the Interest Response Form. A subset of individuals (estimate: 578) are then asked to complete Candidate Screening Questions. Those who complete the questions and are eligible are contacted for participation, with a goal of 156 participants annually.

Frequency of Collection: Once.

Number of Responses: 1,994.

Estimated Total Annual Burden Hours: 835 hours.

Burden has been adjusted from the currently approved collection using the response/eligibility rates for the most recent experiment in this research. The table below shows completion numbers and rates for different stages of collection for that particular experiment. Notice that the last row of the table shows the number of respondents who completed the experiment and for which data were usable. Some respondents' data were identified as not usable after the conclusion of the experiment due to issues such as technical difficulties with the data acquisition equipment. As the final, usable, and verified data will be the basis on which research conclusions are drawn, this collection extension and revision requests an increase in the number of respondents in order to complete the research with enough usable data.

TABLE 1—RESPONSE/ELIGIBILITY RATE DATA

Information collection	Completed	Response/eligibility rate (%)
Interest Response Form	275	.....
Candidate Screening Questionnaire	200	73
Experimental Data Collection	53	27
Usable Data	24	45

The *Interest Response Form* is the initial information collection for an experiment and is a response to the solicitation for candidate research participants. Interested individuals respond to a study recruitment advertisement by completing this *Interest Response Form*. This is a one-

time electronic collection for each experiment and is estimated to take approximately 5 minutes to complete. Using the most recent experiment associated with this IC and calculating response rates, NHTSA requests approval for 792 respondents annually for this collection.

The *Interest Response Form* submissions are reviewed manually by research staff to select eligible participants. Individuals whose responses meet participation requirements (recent eligibility rate was calculated to be 73%) are selected to complete the *Candidate Screening*

Questions. Candidate participants are emailed a link to the electronically presented question set hosted on a secure website. NHTSA estimates that 578 individuals will receive the *Candidate Screening Questions*. This information is collected once for each experiment and takes approximately 7 minutes to complete.

Upon review and determination that the candidate is eligible, that candidate is contacted by email or phone to schedule their participation. Individuals scheduled for study participation are asked to appear at NHTSA’s Vehicle Research and Test Center in East Liberty, OH, for the *Experimental Data Collection*. The *Experimental Data Collection* includes a pre-briefing and data collection during execution of the study protocol. The pre-briefing consists of a greeting, *Participant Informed Consent Form* administration, and presentation of experimental protocol instructions. The *Participant Informed Consent Form* is administered via both pre-recorded audio and a printed hard copy. After presentation of the consent form, the participant is given the

opportunity to ask questions and then asked to sign an electronic version of the consent form on a computer. Following consent, the participant receives instructions on the experimental protocol. For *Experimental Data Collection*, the participant is shown the vehicle, seated in the driver seat, and equipment calibration is performed. Data collection per the study protocol is then conducted through stationary, track-based, or on-road, semi-naturalistic driving experimentation. Data are recorded to document driver eye glance behavior and driving or other protocol-related performance. This *Experimental Data Collection* is conducted once per study and is estimated to take approximately 245 minutes. This estimate includes scheduling, instruction, and the drive. From the data collected thus far, 245 minutes is an appropriate maximum time. Using the recent response rate of 27 percent, NHTSA estimates 156 respondents annually will participate in the *Experimental Data Collection*.

Respondents complete the *Post-drive Questionnaire: Drive with Camera*

Monitor System and/or the *Post-drive Questionnaire: Drive with Traditional Mirrors* depending on which system or systems are used in the respective experiment. While some respondents may only complete one of these questionnaires based on the study design, NHTSA has included both questionnaires for each participant in the burden calculation to develop a maximum burden estimate. This electronic collection is estimated to take 10 minutes per questionnaire. As the same number of respondents that participate in the *Experimental Data Collection* will complete these questionnaires, NHTSA estimates 156 respondents will complete each of these annually.

Each respondent completes the *Post-Drive Questionnaire: Final Opinions*. This electronic collection will be administered once to each participant and is estimated to take 5 minutes to complete. All 156 respondents are expected to complete this questionnaire.

Table 2 shows the annual burden hours for the research.

TABLE 2—ANNUAL BURDEN HOURS AND OPPORTUNITY COST

Information collection	Annual number of respondents	Frequency of response	Annual responses	Time per response (min)	Annual estimated burden hours (rounded)
Interest Response Form	792	1	792	5	66
Candidate Screening Questions	578	1	578	7	67
Experimental Data Collection	156	1	156	245	637
Post-drive Questionnaire: Drive with Camera Monitor System	156	1	156	10	26
Post-drive Questionnaire: Drive with Traditional Mirrors	156	1	156	10	26
Post-drive Questionnaire: Final Opinions	156	1	156	5	13
Total					835

The change reflected in this revision is a reduction in annual burden from 890 hours per year to 835 hours per year.

Estimated Total Annual Burden Cost: \$0.

There are no additional costs to respondents beyond the time spent participating in the study, completing the questionnaires, and travel costs for the visit to the study site. Respondents for the *Interest Response Form* and the *Candidate Screening Questions* use their own electronic device to complete the questionnaires. They are not responsible for purchasing additional equipment nor software for this completion. Any email messages or phone calls made for the purposes of scheduling their participation are handled through personal devices as well.

Public Comments Invited: You are invited to comment on any aspect 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; and 49 CFR 1.95.

Issued in Washington, DC.

Cem Hatipoglu,
Associate Administrator, Office of Vehicle Safety Research.

[FR Doc. 2025–08811 Filed 5–15–25; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****[Docket No. NHTSA–2024–0070]****Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Crash Avoidance Warning System Human-Machine Interface Research****AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).**ACTION:** Notice and request for comments on a request for approval of a new information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection titled “Crash Avoidance Warning System Human-Machine Interface Research” and its expected burden. This ICR is to request approval to conduct 6 new voluntary information collections as part of a one-time research study of drivers’ interactions with crash avoidance technology with different human-machine interface (HMI) characteristics. This research will inform NHTSA’s vehicle safety efforts and decisions regarding rulemaking activities. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on November 7, 2024. Two comments were received during the comment period: one in full support of the collection, the other acknowledging the exclusion of motorcycles and requesting future studies include non-4-wheeled vehicles. This notice includes a discussion of the comments and responses. No changes to the study nor burden calculations are necessary as a result of the comments.

DATES: Comments must be submitted on or before June 16, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at www.reginfo.gov/public/do/PRAMain. To find this particular information collection, select “Currently under Review—Open for Public Comment” or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to

background documents, contact Alexandria Rossi-Alvarez, Ph.D., Office of Vehicle Safety Research, Applied Crash Avoidance Research Division NSR–120, Vehicle Research & Test Center, 10820 State Route 347, East Liberty, OH 43319; a.rossi-alvarez@dot.gov; 937–666–3322.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from OMB before it collects certain information from the public, and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted to OMB.

Title: Crash Avoidance Warning System Human-Machine Interface Research.

OMB Control Number: New.

Form Number: NHTSA Form 2006: Interest Response Form; NHTSA Form 2007: Candidate Screening Questions; NHTSA Form 2008: Appointment Scheduling; NHTSA Form 2009: Participant Informed Consent Form; and NHTSA Form 2010: Post-Drive Questionnaire.

Type of Request: New information collection.

Type of Review Requested: Regular.

Length of Approval Requested: Three years from date of approval.

Summary of the Collection of Information: NHTSA is seeking approval for this new ICR to conduct 6 new voluntary information collections as part of a one-time research program examining drivers’ interactions with crash avoidance technology with different HMI characteristics. This research will inform NHTSA’s vehicle safety efforts and decisions regarding rulemaking activities.

Crash avoidance warning systems aid vehicle drivers in avoiding crashes by presenting alerts and warnings to inform drivers of situations in which the system has determined, via sensor information, that a crash is possible or imminent, depending on the situation. These systems communicate the occurrence of such conditions to drivers via sensory modalities, such as visual or auditory signals or vibration of the seat or steering wheel. This research seeks to improve NHTSA’s understanding of how crash avoidance warning system HMI characteristics affect system effectiveness and potential safety impacts.

The objective of this research is to examine driver behavior while using

crash avoidance warning systems and to assess effects of human-machine interface characteristics on drivers’ behavior and driver response in crash-imminent scenarios. The research will involve driver behavior observation while driving on a test track, public roads, or in a simulated environment (*i.e.*, driving simulator). Data collection may also involve stationary laboratory measurements relating to crash avoidance warning signal characteristics, such as stationary laboratory measurements of individuals’ visual angles when gazing at in-vehicle visual signals (*e.g.*, instrument panel symbols) and displays. Test vehicles will be equipped, as needed, with instrumentation for recording driver eye glance behavior, vehicle control inputs (steering wheel, accelerator pedal, and brake pedal inputs), vehicle position and speed, and turn signal status. During dynamic testing, sensors will determine and record the distances between the test vehicle and surrounding vehicles, as appropriate.

Description of the Need for the Information and Proposed Use of the Information: As driver assistance technologies advance, they have the potential to dramatically reduce the number of motor vehicle crashes and injuries, as well as the associated economic costs. The safety and effectiveness of the crash avoidance warning systems depend on drivers understanding the capabilities and constraints of the systems, and the meaning of visual and auditory alerts or warnings provided.

Drivers successfully perceiving and understanding crash avoidance warnings is important for crash avoidance system effectiveness and crash mitigation. In particular, drivers must comprehend the situation and respond quickly when a crash avoidance warning system indicates an imminent collision is likely. This research aims to assess the effects of crash avoidance warning system HMI characteristics on driver behavior, on driver response in crash-imminent scenarios, and on crash avoidance success. The research will compare various crash avoidance warning system HMI characteristics and examine participants’ responses to the alerts and/or warnings.

60-Day Notice: A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on November 7, 2024 (89 FR 88342). NHTSA received two comments during the public comment period for the 60-day notice. Neither comment challenged the burden calculations.

The National Association of Mutual Insurance Companies (NAMIC) commented, "NAMIC strongly supports this effort by NHTSA. There is no question that the proposed collection of information is necessary for the proper performance of the functions of the agency, and that the information will have practical utility. We believe that the results of the information collection will help NHTSA better understand and ensure vehicle safety." *Response:* NHTSA appreciates the review, consideration, and support of the research. No changes to the collection were necessary as a result of the NAMIC comment.

Zero Motorcycles, Inc. noted that the current information collection does not consider crash avoidance systems on motorcycles or "non-4+ wheeled" vehicles. They stated that motorcycles offer these types of systems and that including them in a future study would be beneficial. *Response:* The scope of the current research effort is focused on light passenger vehicles. NHTSA continues to stay abreast of advancing motorcycle crash avoidance technologies and has other current research projects examining the performance of such technologies.

Affected Public: Research participants will be volunteers from the Columbus, OH area who are licensed drivers aged 25–65 years (inclusive), drive at least 11,000 miles annually, are in good health, and do not require assistive devices to safely operate a vehicle and drive continuously for a period of up to 2 hours.

Estimated Number of Respondents: Candidate participant recruitment information will be collected in an incremental fashion to permit the determination of which individuals meet the criteria for research participation. All interested candidates (estimate: 250 annually) will complete the Interest Response Form. A subset of individuals (estimate: 125 annually) meeting the criteria for the Interest Response Form will be asked to complete Candidate Screening Questions. Those who complete and are eligible based on the Candidate Screening Questions will be contacted for Appointment Scheduling to be study participants, with a goal of 67 participants annually. These same 67 participants will also complete the Experimental Data Collection and the Post-Drive Questionnaire.

Frequency: Once.

This research will be conducted once in phases corresponding to the different crash avoidance warning system types to be examined (i.e., forward, lateral, and rear crash avoidance).

Estimated Number of Responses: 643 responses.

Estimated Annual Burden Hours: 239 hours.

The annual estimated burden for the information collection is 239 hours. This is the aggregate of the estimated annual burden for 6 information collections that would be part of the one-time study. The 6 information collections include: (1) Interest Response Form to be administered to up to 250 potential research respondents; (2) Candidate Screening Questions to be administered to up to 125 research participants; (3) Appointment Scheduling to be administered to up to 67 research participants; (4) Participant Informed Consent Form to be administered to up to 67 research participants; (5) Experimental Data Collection; and (6) Post-Drive Questionnaire to be administered to up to 67 research participants.

The study will begin with a screening process to identify eligible participants. As stated above, the research team intends to identify 250 eligible participants to account for potential attrition to ensure that the target sample of 67 participants is achieved. Participant recruitment will be accomplished via online, print advertisements, and as needed, mailings to registered Ohio vehicle owners. Individuals interested in participation will respond to the recruitment advertisement by visiting a secure website containing a brief study description. The study description includes a web link that interested candidate participants can follow to begin the screening process. NHTSA estimates that the Interest Response Form takes, on average, 5 minutes to complete. Therefore, NHTSA estimates the annual burden for Interest Response Form to be 21 hours (5 minutes $\times$ 250 respondents).

Individuals whose responses meet participation requirements will be selected to take the Candidate Screening Questions. The research team intends to identify 125 eligible participants to account for potential attrition to ensure that the target sample of 67 participants is achieved. Candidate participants are emailed a link to the electronically presented question set hosted on a secure website. NHTSA estimates that

the Candidate Screening Questions takes, on average, 7 minutes to complete. Therefore, NHTSA estimates the annual burden for Candidate Screening Questions to be 15 hours (7 minutes $\times$ 125 respondents).

Upon review of response data for the Candidate Screening Questions, candidates meeting the criteria will be contacted to schedule the study participation appointment. The research team intends to identify 67 eligible candidates. NHTSA estimates that the Appointment Scheduling takes, on average, 2 minutes to complete. Therefore, NHTSA estimates the annual burden for Appointment Scheduling to be 2 hours (2 minutes $\times$ 67 respondents).

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 35 minutes. Therefore, NHTSA estimates the total burden for obtaining informed consent to be 39 hours (35 minutes $\times$ 67 respondents).

Following consent, the participant will receive instructions on the study protocol. For driving data collection, the participant will be shown the vehicle, seated in the driver seat, and an eye-tracking system calibration will be performed. Driving will then commence while data are recorded to document vehicle performance and driver behavior. For stationary measurements, the individual would be seated in a stationary vehicle and asked to look at and/or listen to different crash avoidance warnings and provide verbal feedback as appropriate. This Experimental Data Collection will be conducted once and take approximately 130 minutes. Therefore, NHTSA estimates that the total burden for the Experimental Data Collection to be 145 hours (130 minutes $\times$ 67 respondents).

At the end, participants will complete a Post-Drive Questionnaire, estimated to take approximately 15 minutes. The total burden for the Post-Drive Questionnaire is estimated to be 17 hours (15 minutes $\times$ 67 respondents). The total annual burden for the entire study is estimated to be 239 hours.

The estimated annual burden time is summarized in Table 1 below. The number of respondents and time to complete each question set are estimated as provided.

TABLE 1—ANNUAL BURDEN ESTIMATES

Information collection	Annual number of respondents	Frequency of response	Annual responses	Time per response (min)	Annual estimated burden hours (rounded)
Interest Response Form	250	1	250	5	21
Candidate Screening Questions	125	1	125	7	15
Appointment Scheduling	67	1	67	2	2
Participant Informed Consent Form	67	1	67	35	39
Experimental Data Collection	67	1	67	130	145
Post-Drive Questionnaire	67	1	67	15	17
Total Annual Burden .....	.....	.....	643	.....	239

Estimated Total Annual Burden Cost: \$0.

There is no cost to respondents for this information collection. The costs associated with travel are minimal and expected to be offset by the compensation that will be provided to the research participants.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Cem Hatipoglu,

Associate Administrator, Vehicle Safety Research.

[FR Doc. 2025–08804 Filed 5–15–25; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Nos. NHTSA–2024–0043, NHTSA–2024–0044, and NHTSA–2024–0063; Notice 1]

Mercedes-Benz AG, Mercedes-Benz USA, LLC, and Daimler Vans USA, LLC, Receipt of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petitions.

SUMMARY: Mercedes-Benz AG, Mercedes-Benz USA, LLC, and Daimler Vans USA, LLC (collectively, “Mercedes-Benz”) have determined that certain model year (MY) 2001–2025 Mercedes-Benz and Daimler Vans motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles With a GVWR of 4,536 kilograms (10,000 pounds) or Less*, or FMVSS No. 120, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles With a GVWR of More Than 4,536 kilograms (10,000 pounds)*. Mercedes-Benz USA, LLC, and Daimler Vans, USA, LLC, filed noncompliance reports dated May 25, 2024, and June 24, 2024. Mercedes-Benz subsequently petitioned NHTSA (the “Agency”) on June 14, 2024, and on July 12, 2024, for a decision that the subject noncompliances are inconsequential as they relate to motor vehicle safety. This document announces receipt of Mercedes-Benz's petitions.

DATES: Send comments on or before June 16, 2025.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition.

Comments must refer to the docket and notice numbers cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petitions are granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID numbers for these petitions are shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT:

Kamna Ralhan, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–6443.

SUPPLEMENTARY INFORMATION:

I. Overview: Mercedes-Benz determined that certain MY 2001–2024 Mercedes-Benz and Daimler Vans motor vehicles do not fully comply with paragraph S4.3.3 of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles With a GVWR of 4,536 kilograms (10,000 pounds) or Less* (49 CFR 571.110), or paragraph S5.3 of FMVSS No. 120, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles With a GVWR of More Than 4,536 kilograms (10,000 pounds)* (49 CFR 571.120).

Mercedes-Benz filed a noncompliance report (24V–373) dated May 24, 2024, and amended it on May 28, 2024, May 31, 2024, and June 14, 2024, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Mercedes-Benz petitioned NHTSA on June 14, 2024, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that these noncompliances are inconsequential as they relate to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Mercedes-Benz also filed two noncompliance reports on June 24, 2024 (24V–472 and 24V–473), and amended recall report 24V–473 on June 27, 2024, July 1, 2024, and July 2, 2024, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Mercedes-Benz submitted a petition for each noncompliance report

on July 12, 2024, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that these noncompliances are inconsequential as they relate to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Mercedes-Benz's petitions is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petitions.

II. Vehicles Involved: Approximately 308,898 of the following Mercedes-Benz motor vehicles manufactured between September 3, 2001, and May 27, 2024, were reported by the manufacturer:

- MY 2002–2008 Mercedes-Benz G 500
- MY 2003–2011 Mercedes-Benz AMG G 55
- MY 2009–2024 Mercedes-Benz G 550
- MY 2017–2018 Mercedes-Benz G550 4x4² (squared)
- MY 2013–2024 Mercedes-Benz Mercedes-AMG G 63
- MY 2022–2023 Mercedes-Benz Mercedes-AMG G 63 4x4² (squared)
- MY 2016–2018 Mercedes-Benz Mercedes-AMG G 65
- 2022–2023 Mercedes-Benz EQB 250
- 2023–2024 Mercedes-Benz EQB 300
- 2022–2024 Mercedes-Benz EQB 350
- 2023–2024 Mercedes-Benz EQE 350 SUV
- 2023–2024 Mercedes-Benz EQE 500 SUV
- 2023–2024 Mercedes-Benz EQS 450 SUV
- 2023–2024 Mercedes-Benz EQS 580 SUV
- 2023–2025 Mercedes-Benz GLA 250
- 2023–2025 Mercedes-Benz GLB 250
- 2024 Mercedes-Benz GLC 300 Coupe
- 2023–2024 Mercedes-Benz GLC 300
- 2023–2024 Mercedes-Benz GLE 350
- 2024 Mercedes-Benz GLE 450 e
- 2023–2024 Mercedes-Benz GLE 450
- 2023–2024 Mercedes-Benz GLE 580
- 2023–2024 Mercedes-Benz GLS 450
- 2023–2024 Mercedes-Benz GLS 580
- 2024 Mercedes-Benz Maybach EQS 680 SUV
- 2023–2024 Mercedes-Benz Maybach GLS 600
- 2024 Mercedes-Benz AMG EQE SUV
- 2023–2024 Mercedes-Benz AMG GLE 53 Coupe
- 2023–2024 Mercedes-Benz AMG GLE 53
- 2023–2024 Mercedes-Benz AMG GLE 63 S
- 2023–2024 Mercedes-Benz AMG GLS 63

Approximately 680,077 of the following Daimler Vans motor vehicles

manufactured between December 20, 2000, and June 14, 2024, were also reported by the manufacturer:

- MY 2003–2021 Freightliner Sprinter Van 2500
- MY 2001–2021 Freightliner Sprinter Van 3500
- MY 2005–2009 Dodge Sprinter Van 2500
- MY 2005–2009 Dodge Sprinter Van 3500
- MY 2007–2023 Mercedes-Benz Sprinter Van 1500
- MY 2007–2024 Mercedes-Benz Sprinter Van 2500
- MY 2007–2024 Mercedes-Benz Sprinter Van 3500
- MY 2018–2024 Mercedes-Benz Sprinter Van 3500XD
- MY 2016–2023 Metris Van
- MY 2017–2024 Mercedes-Benz Sprinter Van 4500

III. Rule Requirements: Paragraphs S4.3.3 of FMVSS No. 110 and S5.3 of FMVSS No. 5.3 include the requirements relevant to the petitions. Paragraph S4.3.3 requires that all vehicles be labeled with the rim size and type designation for the appropriate tire after the required GAWR certification label, in block capital letters and numbers in the English language, in a font size no less than 2.4 millimeters in height. Prior to September 1, 2003, paragraph S5.3 of FMVSS No. 120 provided the relevant labeling requirements for multipurpose passenger vehicles. Effective September 1, 2003, the applicability of FMVSS Nos. 110 and 120 were revised, such that the requirements for the certification label affixed to certain vehicles with a GVWR of 10,000 pounds or less became those of FMVSS No. 110, paragraph S4.3.3 (68 FR 38116). Some of the subject vehicles were manufactured prior to September 1, 2003, and those vehicles were subject to the tire and rim certification label requirements set forth in FMVSS No. 120, paragraph S5.3. Those vehicles in the population with a GVWR greater than 10,000 pounds are still subject to the label requirements in FMVSS No. 120.

IV. Noncompliance: Mercedes-Benz explains that the subject vehicles are equipped with placards (also referred to as “certification labels”) that do not comply with labeling requirements in FMVSS No. 110 and FMVSS No. 120 because the placards on the driver's side B-pillar are missing the required information on tire and rim size, as well as the manufacturer's recommended cold inflation pressure.

V. Summary of Mercedes-Benz's Petition: The following views and arguments presented in this section, “V.

Summary of Mercedes-Benz's Petition," are the views and arguments provided by Mercedes-Benz. They have not been evaluated by the Agency and do not reflect the views of the Agency. Mercedes-Benz describes the subject noncompliance and contends that the noncompliances are inconsequential as they relate to motor vehicle safety.

Mercedes-Benz states that NHTSA has "an unbroken line of precedent" of granting inconsequential noncompliance petitions in the case of labeling omissions, particularly in those cases where the information provided on the placards can be found in convenient alternate sources. In support of its petition, Mercedes-Benz submitted the following reasoning:

1. Mercedes-Benz notes that NHTSA distinguishes between labeling requirements and performance requirements and that the threshold to qualify as an inconsequential noncompliance is lower for labeling requirements with no performance implications. Mercedes-Benz cites *Federal Motor Vehicle Safety Standards; Tires*, 68 FR 38116 (June 26, 2003), to illustrate that the purpose of FMVSS No. 110 and FMVSS No. 120 is to ensure safe and operational performance by requiring that vehicles are equipped with tires of adequate load rating and rims of appropriate size and type designation. Mercedes-Benz also cites two previous petitions: *Chrysler, LLC, Grant of Petition for Decision of Inconsequential Noncompliance*, 73 FR 39779 (July 10, 2008); and *Volkswagen of America, Inc., Grant of Application for Decision of Inconsequential Noncompliance*, 67 FR 19803 (April 23, 2002), to show that there is established precedent to NHTSA granting inconsequential noncompliance in cases involving labeling noncompliances if the information contained is readily available to potential users.

2. Mercedes-Benz states that the tire and rim size information as well as recommended cold inflation pressure, while not found on the required label in the required location, can be easily found in other locations throughout the vehicle and, therefore does not create a significantly greater risk to an occupant than a vehicle that complies with FMVSS No. 110 and FMVSS No. 120. For the GLE-Series, GLS-Series, EQB-Series, GLA-Series, GLB-Series, EQE-Series, EQS-Series, GLC-Series, G-Series multipurpose passenger vehicles and Sprinter Metris vans with a GVWR less than 10,000 pounds, the tire size and recommended cold inflation pressure can be found on the Tire and Loading Information Placard near the certification label on the driver's side B-

pillar. For the Metris and Sprinter vans with a GVWR over 10,000 pounds manufactured before June 2023, the label can be found on the seat base "immediately adjacent to the certification label." For those Sprinter vans with a GVWR greater than 10,000 pounds manufactured after June 2023, the label can be found on the driver's side B-pillar. The tire size is also on the original equipment tires and recommended cold inflation pressure can also be found on a label inside the fuel filler or charging flap, or in the case of the EQE and EQS vehicles, on the driver's side B-pillar. The rim size can be found on the vehicle's rims. Furthermore, Mercedes-Benz indicates that any Mercedes-Benz dealer/service/repair workshop using the Mercedes-Benz Global Workshop Information System, the Mercedes-Benz Customer Assistance Center, and *MBUSAtirecenter.com* can advise the user with the appropriate tire and rim size, as well as the appropriate tire inflation pressure.

3. Mercedes-Benz suggests that NHTSA precedent supports granting its petition, asserting that NHTSA has granted every petition for inconsequential noncompliance related to FMVSS No. 110 S4.3.3 and FMVSS No. 120 S5.3 that Mercedes-Benz has found. Mercedes-Benz cites several similar petitions related to FMVSS Nos. 110 and 120 that were all granted inconsequential noncompliance by NHTSA on the basis that the required information was provided through other conspicuous labels or other readily accessible locations. The cases cited are:

- *Kia Motors America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance*, 85 FR 39676 (July 1, 2020)—granted to Kia Telluride vehicles that omitted appropriate rim size on the certification label required by FMVSS No. 110 but had the rim size embossed on the original rim itself.

- *Volkswagen of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance*, 69 FR 60459 (October 8, 2004)—granted to Volkswagen Touareg that omitted rim size labeling required by FMVSS No. 120 but had the rim size embossed on the original rim itself.

- *Chrysler, LLC, Grant of Petition for Decision of Inconsequential Noncompliance*, 73 FR 39779 (July 10, 2008)—granted to certain Dodge Magnum, Jeep Compass, and Jeep Patriot vehicles that omitted tire and rim size information on the certification label but included the tire size on the Tire and Loading Information Placard and the rim size could be found

inscribed on the original rims provided with the vehicle.

- *Hyundai-Kia America Technical Center, Inc., Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 38445 (June 26, 2013)—granted to certain Hyundai Veracruz vehicles that were missing appropriate tire size labeling required by FMVSS No. 110 but complied with all other safety performance requirements of FMVSS No. 110.

Mercedes-Benz concludes by stating its belief that the subject noncompliances are inconsequential as they relate to motor vehicle safety and its petitions to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliances, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on these petitions only applies to the subject vehicles that Mercedes-Benz no longer controlled at the time it determined that the noncompliances existed. However, any decision on these petitions does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mercedes-Benz notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2025-08809 Filed 5-15-25; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2024–2020; Notice 2]

Goodyear Tire & Rubber Company,
Grant of Petition for Decision of
Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Goodyear Tire & Rubber Company (Goodyear) has determined that certain Goodyear 265/70R17 116T XL Wrangler Duratrac RT passenger tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Goodyear filed a noncompliance report dated April 2, 2024, and subsequently petitioned NHTSA (the “Agency”) on April 2, 2024, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of Goodyear’s petition.

FOR FURTHER INFORMATION CONTACT:

Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655–0546.

SUPPLEMENTARY INFORMATION:

I. Overview: Goodyear determined that certain Goodyear Wrangler Duratrac RT tires do not fully comply with paragraph S5.5 of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139).

Goodyear filed a noncompliance report dated April 2, 2024, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Goodyear petitioned NHTSA on April 2, 2024, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of Goodyear’s petition was published with a 30-day public comment period, on August 26, 2024, in the **Federal Register** (89 FR 68494). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2024–0020.”

II. Tires Involved: Approximately 3,758 Goodyear Wrangler Duratrac RT passenger tires, manufactured between July 16, 2023, and September 23, 2023, were reported by the manufacturer.

III. Rule Requirements: Paragraph S5.5(f) of FMVSS No. 139 includes the requirements relevant to this petition. Each tire must have one sidewall marked with the generic name of each cord material used in the plies (both sidewall and tread area) and indicate the actual number of plies in the sidewall, as well as the actual number of plies in the tread area.

IV. Noncompliance: Goodyear explains that the noncompliance is due to a mold error and that as a result, the number of tread plies indicated on the sidewall of the subject tires does not match the actual number of plies in the tire construction as required by paragraph S5.5(f) of FMVSS No. 139. Specifically, the subject tires were manufactured with 2-ply polyamide cords in the tread area but were incorrectly marked to indicate a 1-ply polyamide cord in the tread area.

V. Summary of Goodyear’s Petition: The following views and arguments presented in this section, “V. Summary of Goodyear’s Petition,” are the views and arguments provided by Goodyear; they do not reflect the views of the Agency. Goodyear describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Goodyear contends that the subject noncompliance is inconsequential to motor vehicle safety because the tires were manufactured according to design and meet or exceed all applicable FMVSS performance standards. The sidewall markings for tire service, including load capacity and inflation pressure are accurate. Goodyear maintains that the labeling error does not impact safety, tire usage, or the repair and recycling industries. Further, Goodyear states that the affected tire mold has been corrected in production and future tires will correctly indicate the number of plies shown on the sidewalls.

Goodyear argues that NHTSA has previously granted petitions for similar noncompliances concerning tire construction information, based on surveys indicating that most consumers do not use tire construction information from the sidewall when purchasing tires.

Goodyear concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49

U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA’s Analysis: In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.¹ In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.² Further, because each inconsequential noncompliance petition must be evaluated on its own facts and determinations are highly fact-dependent, NHTSA does not consider prior determinations as binding precedent. Petitioners are reminded that they have the burden of persuading NHTSA that the noncompliance is inconsequential to safety.

NHTSA has evaluated the merits of Goodyear’s petition and is granting the petitioner’s request for an exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120. The Agency considered the following prior to making this determination:

1. Operational Safety & Performance: NHTSA agrees that in this case, the incorrect number of polyamide tread plies labeled on the tire has no effect on the operational safety of vehicles when the affected tires meet the other performance and labeling requirements of FMVSS No. 139. Further, the agency has no basis to believe that the tires do not otherwise meet all of the performance and labeling requirements of FMVSS No. 139, except for the mismarking of the number of tread plies.

¹ See *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

² See *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016); see also *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it “results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future”).

2. *Tire Identification and Traceability:* The tires have the required information per 49 CFR 574.5 to ensure that the tires may be properly registered for the purposes of a safety recall. The TIN is both legible and easily discernible.

3. *Downstream Operations:* The Agency must also consider other interested parties besides the manufacturer and end-user. Downstream entities involved in tire repair, retreading, and recycling operations require certain information to determine if tires may be safely used in their operations. The existence of steel in a tire's sidewall and tread can be relevant to the way it should be repaired or retreaded. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. While the subject tires contain steel plies, the number and location of steel plies is correctly marked on the subject tires, so the Agency does not believe the noncompliance which only concerns mismarking of polyamide plies will have a measurable effect on the safety of the tire retread, repair, and recycling industries.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Goodyear has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, Goodyear's petition is hereby granted and Goodyear is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that Goodyear no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Goodyear notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke, III,
Director, Office of Vehicle Safety Compliance.
[FR Doc. 2025-08808 Filed 5-15-25; 8:45 am]
BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No.: DOT-OST-2025-0038]

U.S. Department of Transportation Advisory Board

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

ACTION: Establishment of the U.S. Department of Transportation Advisory Board and solicitation of nominations for membership.

SUMMARY: The Department announces the establishment of the U.S. Department of Transportation Advisory Board, which is intended to provide strategic vision and high-level guidance to modernize and enhance the United States transportation systems. In addition, the Department is soliciting nominations for membership of the Board.

DATES: The deadline for nominations for Committee members must be received on or before June 2, 2025.

ADDRESSES: All nomination materials should refer to the docket number above and be submitted by one of the following methods:

- *Federal Rulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: USDOT Advisory Board Designated Federal Officer, c/o Juli Huynh—Director, Office of Policy Coordination and Development, Office of the Secretary, DOTAdvisoryBoard@dot.gov or (202) 366-2278.

SUPPLEMENTARY INFORMATION: The Department announces the establishment of the U.S. Department of Transportation Advisory Board (USDOT Advisory Board). The purpose of the

USDOT Advisory Board is to provide strategic vision and high-level guidance to modernize and enhance the United States' transportation systems. With the American Society of Civil Engineers estimating that over \$4 trillion is needed to improve U.S. infrastructure from a D rating to a B, the Board's expertise will be instrumental in shaping policies and initiatives that drive safety, efficiency, resiliency, and long-term progress.

In particular, the USDOT Advisory Board will be dedicated to: (1) developing strategic recommendations for infrastructure modernization and expansion; (2) identifying key investment opportunities in transportation technology and innovation; (3) providing insights into regulatory and policy improvements to enhance efficiency and reduce bureaucratic obstacles; and (4) advising on public-private partnerships to maximize funding and impact. The Board will be continuing, but subject to renewal every two years. The Board is expected to meet quarterly. The Secretary, in consultation with the Board, may create subcommittees to work on specific tasks. Unless otherwise required by law or approved by the Secretary, all meetings will be held virtually.

In this notice, the Department is also soliciting nominations for membership to the Board. The Board shall report to the Secretary and shall consist of approximately ten members, representing a range of industry leaders and experts across key sectors of transportation, including aviation, logistics, infrastructure, construction, finance, and legal affairs. Members will serve two year terms but may be reappointed. The Department is interested in ensuring a balanced membership that appropriately represents the varied interests of transportation stakeholders, including industry leaders and experts across key sectors of transportation, including aviation, logistics, infrastructure, construction, finance, and legal affairs.

Process and Deadline for Submitting Nominations: Qualified individuals can self-nominate or be nominated by any individual or organization. To be considered for the USDOT Advisory Board, nominators should submit the following information:

- (1) Name, title, and relevant contact information (including phone, fax, and email address) of the individual requesting consideration;
- (2) A letter of support from a company, union, trade association, academic or non-profit organization on letterhead containing a brief description

why the nominee should be considered for membership;

(3) Short biography of nominee including professional and academic credentials;

(4) An affirmative statement that the nominee meets all Committee eligibility requirements.

Please do not send company, trade association, or organization brochures or any other information. Materials submitted should total two pages or less. Should more information be needed, DOT staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources, such as the internet.

Nominations must be received before June 2, 2025. Nominees selected for appointment to the Board will be notified by return email and by a letter of appointment.

Issued in Washington, DC.

Gregory D. Cote,

Acting General Counsel.

[FR Doc. 2025-08788 Filed 5-15-25; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and vessels that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. The vessels placed on the SDN List have been identified as property in which a blocked person has an interest.

DATES: This action was issued on May 13, 2025. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202-622-2420; Assistant Director for Licensing, 202-622-2480; Assistant Director for Sanctions Compliance, 202-622-2490; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On May 13, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individual

BILLING CODE 4810-AL-P

1. KHORASANI NIASARI, Mohammad (Arabic: محمد خراسانی نیاسری), Iran; DOB 15 Mar 1973; POB Tehran, Iran; nationality Iran; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport Y68396891 (Iran) expires 14 Aug 2029; National ID No. 0055693563 (Iran) (individual) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(A) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism," 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041 (E.O. 13224, as amended), for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Entities

1. MILEN TRADING CO., LIMITED (Chinese Traditional: 美然貿易有限公司), Room D5, Floor Five, King Yip Factory Building, No. 59 King Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 03 Apr 2024; Business Registration Number 76393312 (Hong Kong) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. STAR ENERGY INTERNATIONAL LIMITED (Chinese Traditional: 星熠能源國際有限公司), Room D, 10/F, Tower A Billion Centre, 1 Wang Kwong Road, Kowloon Bay, Kowloon, Hong Kong, China; Room D5, 5/F, King Yip Factory Building, 59 King Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 01 Nov 2023; Company Number 3333594 (Hong Kong); Business Registration Number 75866174 (Hong Kong) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. XIN RUI JI TRAD CO., LIMITED (Chinese Traditional: 鑫瑞吉貿易有限公司), Unit C, 9/F Winning House, No. 72-76 Wing Lok Street, Sheung Wan, Hong Kong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 28 Mar 2023; Company Number 3257341 (Hong Kong); Business Registration Number 75098080 (Hong Kong) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. CCIC SINGAPORE PTE. LTD., 81 Science Park Drive, #03-02 The Chadwick, Singapore Science Park 1, Singapore 118257, Singapore; 192 Pandan Loop, #04-26/27 Pantech Business Hub, Singapore 128381, Singapore; Website www.ccicsg.com; alt. Website www.ccic.com.sg; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 23 Nov 1989; Registration Number 198905118G (Singapore) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

5. FINE SANMATA SHIPPING CO., LIMITED, Room 1002, Floor 10, Easey Commercial Building, 253-261, Hennessy Road, Causeway Bay, Hong Kong, China; Monrovia, Liberia; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 08 Feb 2022; Identification Number IMO 6305602; Business Registration Number 73776848 (Hong Kong) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

6. FORSAL CHARTERING CORPORATION, Suite 10, Third Floor, La Ciotat, Mont Fleuri, Mahe Island, Seychelles; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2023; Identification Number IMO 6370362 [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

7. NANHAI LIMITED, Unit A7, 12/F, Astoria Building, 34 Ashley Road, Tsim Sha Tsui, Hong Kong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 28 Aug 2024; Business Registration Number 76991435 (Hong Kong) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

8. CONTINENTAL SINOIL GROUP LIMITED, Unit I, 3/F, Good Harvest Centre, 33 On Chuen Street, Fanling, New Territories, Hong Kong, China; Unit 83, 3/F, Yau Lee Center, No. 45 Hoi Yuen Road, Kwun Tong, Kowloon, Hong Kong 999077, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 08 Jul 2022; Company Number 3170204 (Hong Kong); Legal Entity Number 836800NDNIU7XUU8IS41; Business Registration Number 74219776 (Hong Kong) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

9. HUANGDAO INSPECTION AND CERTIFICATION CO., LTD (Chinese Simplified: 黄岛检验认证有限公司), Room 1216, No. 469 Changjiang M. Road, Huangdao, Qingdao, Shandong 266555, China; Room 1201, No. 150, Huanghe East Road, Pilot Free Trade Zone, Qingdao, Shandong 266000, China; Room 1803, #469, Changjiang Zhong Road, Huangdao, Qingdao, Shandong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 20 Jul 2012; Unified Social Credit Code (USCC) 91370211599022395P (China) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

10. METAONE TRADING LIMITED, Room A1-13, BLK A, 3/F, Yee Lim Ind Ctr, 2-28 Kwai Lok St., Kwai Chung NT, Hong Kong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 16 Nov 2021; Company Number 3103280 (Hong Kong); Business Registration Number 73544356 (Hong Kong) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

11. ORIENTAL APPLE COMPANY PTE LTD, International Plaza, 10 Anson Road #12-08, 079903, Singapore; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 29 Mar 2021; Business Registration Number 202110994Z (Singapore) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

12. QINGDAO FUSHEN PETROCHEMICAL CO., LTD (Chinese Simplified: 青岛富申石油化工有限公司), Room 8302-2-1, Third Floor, Yufang Hailan Office Building, No. 1, Indian Ocean Road, West Coast Comprehensive Bonded Zone, Pilot Free Trade Zone, Qingdao, Shandong 266555, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 28 Oct 2022; Legal Entity Number 836800L3VBP3FOFDTP68; Unified Social Credit Code (USCC) 91370220MABP904JX9 (China) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

13. QINGDAO LINKRICH INTERNATIONAL SHIPPING AGENCY CO., LTD (Chinese Simplified: 青岛联润国际船舶代理有限公司) (a.k.a. QINGDAO LIANRUN INTERNATIONAL SHIPPING AGENCY CO., LTD), Room 1126, Hisense Building, No. 17, Donghai West Rd, Qingdao, Shandong 266071, China; No. 87, Fuzhou South Road, Shinan District, Qingdao, Shandong 266073, China; Room A308, Oriental Business Building, No. 266, Ningxia Road, Shinan District, Qingdao, Shandong 266001, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 25 Feb 2004; Unified Social Credit Code (USCC) 91370202756939106J (China) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

14. SOUTH SEA ENERGY LIMITED (Chinese Traditional: 南海能源有限公司), Unit D01, 3/F, Wong King Industrial Building, No. 2 Tai Yau Street, Kowloon, Hong Kong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 08 Jul 2022; Company Number 3169834 (Hong Kong); Legal Entity Number 836800F0JS2C5W7DP628; Business Registration Number 74216079 (Hong Kong) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

15. WINSO TRADING LIMITED (Chinese Traditional: 望舒貿易有限公司), Room D5, Fifth Floor, Jingyc Factory Building, No. 59 Jingyc Street, Kowloon, Hong Kong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 07 Dec 2023; Company Number 3346260 (Hong Kong); Business Registration Number 75993892 (Hong Kong) [SDGT] [IFSR] (Linked To: SEPEHR ENERGY JAHAN NAMA PARS COMPANY).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEPEHR ENERGY JAHAN NAMA PARS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

an interest under the relevant sanctions authority listed below.

Vessels

1. BALU (TJM0133) Floating Storage Tanker Cameroon flag; Vessel Registration Identification IMO 9235244; MMSI 613469620 (vessel) [SDGT] (Linked To: FORSAL CHARTERING CORPORATION).

Identified as property in which FORSAL CHARTERING CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

2. ROC (3E6750) Crude Oil Tanker Panama flag; Vessel Registration Identification IMO 9275660; MMSI 352004455 (vessel) [SDGT] (Linked To: FINE SANMATA SHIPPING CO., LIMITED).

Identified as property in which FINE SANMATA SHIPPING CO., LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

Lawrence M. Scheinert,

Acting Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2025-08816 Filed 5-15-25; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Superfund Tax on Chemical Substances; Request To Modify List of Taxable Substances; Notice of Filing for Linear Nonyl Tri-Mellitate

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of filing and request for comments.

SUMMARY: This notice of filing announces that a petition has been filed requesting that linear nonyl tri-mellitate be added to the list of taxable substances. This notice of filing also requests comments on the petition. This notice of filing is not a determination that the list of taxable substances is modified.

DATES: Written comments and requests for a public hearing must be received on or before July 15, 2025.

ADDRESSES: Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate public docket number IRS-2025-0053 or Linear Nonyl Tri-Mellitate) by following the online instructions for submitting

comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal.

Alternatively, comments and requests for a public hearing may be mailed to: Internal Revenue Service, Attn: CC:PA:01:PR (Notice of Filing for Linear Nonyl Tri-Mellitate), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. You should submit only information that you wish to make publicly available. If a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Andrew Clark at (202) 317-6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Request To Add Substance to the List

(a) *Overview.* A petition was filed pursuant to Rev. Proc. 2022-26 (2022-29 I.R.B. 90), as modified by Rev. Proc. 2023-20 (2023-15 I.R.B. 636), requesting that linear nonyl tri-mellitate be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (List). The petition requesting the addition of linear nonyl tri-mellitate to the List is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022-26. The publication of petition information in this notice of filing is not a determination and does not constitute Treasury Department or IRS confirmation of the accuracy of the information published.

(b) *Petition Content.*

(1) *Substance name:* Linear nonyl tri-mellitate.

(2) *Petitioner:* Exxon Mobil Corporation, an exporter of linear nonyl tri-mellitate.

(3) *Proposed classification numbers:*

(i) *HTSUS number:* 2917.39.20.00.

(ii) *Schedule B number:* 2917.39.2000.

(iii) *CAS number:* 220582-53-6.

(4) *Petition filing dates:*

(i) *Petition filing date for purposes of making a determination:* May 1, 2025.

(ii) *Petition filing date for purposes of section 11.02 of Rev. Proc. 2022-26, as modified by section 3 of Rev. Proc. 2023-20:* July 1, 2022.

(5) *Description from petition:* Linear nonyl tri-mellitate is a plasticizer used in automotive interiors, as well as wire

and cable applications, that require resistance to very high temperatures, migration and extraction resistance over long durations.

Linear nonyl tri-mellitate is produced using ethylene. Taxable chemicals constitute 53.90 percent by weight of the materials used to produce this substance.

(6) *Process identified in petition as predominant method of production of substance:* Linear nonyl tri-mellitate is produced using an esterification reaction. The linear nonyl tri-mellitate tri-ester is made by reacting primary C9 alcohol with Trimellitic anhydride. The ester is produced by esterification of 3 moles of a linear C9 alcohol and one mole of Trimellitic anhydride in the presence of an acidic catalyst.

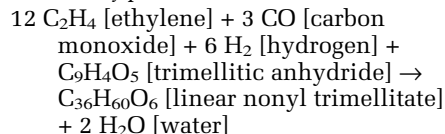
By using excess alcohol (up to 30% molar excess of C9 alcohol) and removing the water, the equilibrium is shifted towards the formation of the tri-ester. The reactants are charged into a reactor and heated up. The reaction rate is accelerated by using, for example, tetra-n-butyl titanate introduced at high temperature (140 °C–250 °C), while removing the water formed.

Excess alcohol is distilled from the ester by vacuum prior to neutralization and recycled into subsequent batches. The final ester is purified by neutralizing with a base such as an aqueous solution of sodium carbonate. The remaining excess water is distilled off and the ester is then filtered using filter agents.

The degree of purity of the ester is min 99.0 wt%. The overall formula is C₃₆H₆₀O₆ and the molecular weight is 589 g.mol⁻¹, based on the carbon numbers of the alkyl groups, with 9 carbons being the predominant number and the average (>97% C9). The alkyl groups typically have methyl- or ethyl-branching, with on average 0.3 branches per molecule typically found on the 2nd carbon of the alkyl chain closest to the aromatic ring.

The linear C9 alcohol is obtained through hydroformylation of Octene. Octene is obtained through ethylene oligomerization. Hydroformylation is the reaction of Octene at high pressure and temperature in the presence of a catalyst with syngas (a mixture of Carbon monoxide and Hydrogen). An alcohol with one carbon atom higher versus the starting olefin is obtained, hence Octene gives Nonanol. The hydroformylation induces 0.3 branches per molecule predominantly on the 2-position carbon of the alcohol. Trimellitic anhydride is obtained through air oxidation of 1,2,4-trimethylbenzene.

(7) *Stoichiometric material consumption equation, based on process identified as predominant method of production:*



(8) *Tax rate calculated by Petitioner, based on Petitioner's conversion factors for taxable chemicals used in production of substance:*

(i) *Tax rate:* \$5.55 per ton.

(ii) *Conversion factors:* 0.57 for ethylene.

(9) *Public docket number:* IRS–2025–0053.

Michael Beker,

Senior Counsel (Energy, Credits, and Excise Tax), IRS Office of Chief Counsel.

[FR Doc. 2025–08712 Filed 5–15–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Superfund Tax on Chemical Substances; Request To Modify List of Taxable Substances; Notice of Filing for DIPE—Di-isopropyl Ether

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of filing and request for comments.

SUMMARY: This notice of filing announces that a petition has been filed requesting that DIPE—di-isopropyl ether be added to the list of taxable substances. This notice of filing also requests comments on the petition. This notice of filing is not a determination that the list of taxable substances is modified.

DATES: Written comments and requests for a public hearing must be received on or before July 15, 2025.

ADDRESSES: Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate public docket number IRS–2025–0049 or DIPE—Di-isopropyl Ether) by following the online instructions by submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal. Alternatively, comments and requests for a public hearing may be mailed to: Internal Revenue Service, Attn: CC:PA:01:PR (Notice of Filing for DIPE—Di-isopropyl Ether), Room 5203,

P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. You should submit only information that you wish to make publicly available. If a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Andrew Clark at (202) 317–6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Request To Add Substance to the List

(a) *Overview.* A petition was filed pursuant to Rev. Proc. 2022–26 (2022–29 I.R.B. 90), as modified by Rev. Proc. 2023–20 (2023–15 I.R.B. 636), requesting that DIPE—di-isopropyl ether be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (List). The petition requesting the addition of DIPE—di-isopropyl ether to the List is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022–26. The publication of petition information in this notice of filing is not a determination and does not constitute Treasury Department or IRS confirmation of the accuracy of the information published.

(b) *Petition Content.*

(1) *Substance name:* DIPE—di-isopropyl ether.

(2) *Petitioner:* Exxon Mobil Corporation, an exporter of DIPE—di-isopropyl ether.

(3) *Proposed classification numbers:*

(i) *HTSUS number:* 2909.19.18.00.

(ii) *Schedule B number:* 2909.19.18.00.

(iii) *CAS number:* 108–20–3.

(4) *Petition filing dates:*

(i) *Petition filing date for purposes of making a determination:* May 1, 2025.

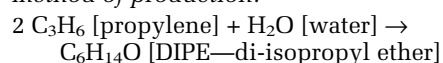
(ii) *Petition filing date for purposes of section 11.02 of Rev. Proc. 2022–26, as modified by section 3 of Rev. Proc. 2023–20:* July 1, 2022.

(5) *Description from petition:* DIPE—di-isopropyl ether is a high purity diisopropylether suitable for gasoline additives; mineral, vegetable, and animal oil extraction; varnish removers; and waxes, resins, dyes, and paints.

DIPE—di-isopropyl ether is produced using propylene. Taxable chemicals constitute 82.40 percent by weight of the materials used to produce this substance.

(6) *Process identified in petition as predominant method of production of substance:* DIPE—di-isopropyl ether is produced via isopropyl alcohol (IPA) production using a two-step indirect hydration process. A mixed propane/propylene stream is reacted with aqueous sulfuric acid to form a H₂SO₄/propylene extract. The formed isopropyl hydrogen sulfate is further reacted with additional IPA under acidic conditions to form DIPE—di-isopropyl ether such that two moles of isopropanol are converted to 1 mole of DIPE—di-isopropyl ether and 1 mole of water.

(7) *Stoichiometric material consumption equation, based on process identified as predominant method of production:*



(8) *Tax rate calculated by Petitioner, based on Petitioner's conversion factors for taxable chemicals used in production of substance:*

(i) *Tax rate:* \$7.99 per ton.

(ii) *Conversion factors:* 0.82 for propylene.

(9) *Public docket number:* IRS–2025–0049.

Michael Beker,

Senior Counsel (Energy, Credits, and Excise Tax), IRS Office of Chief Counsel.

[FR Doc. 2025–08711 Filed 5–15–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Superfund Tax on Chemical Substances; Request To Modify List of Taxable Substances; Notice of Filing for Isooctyl Alcohol

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of filing and request for comments.

SUMMARY: This notice of filing announces that a petition has been filed requesting that isooctyl alcohol be added to the list of taxable substances. This notice of filing also requests comments on the petition. This notice of filing is not a determination that the list of taxable substances is modified.

DATES: Written comments and requests for a public hearing must be received on or before July 15, 2025.

ADDRESSES: Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate public

docket number IRS–2025–0052 or Isooctyl Alcohol) by following the online instructions for submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal. Alternatively, comments and requests for a public hearing may be mailed to: Internal Revenue Service, Attn: CC:PA:01:PR (Notice of Filing for Isooctyl Alcohol), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. You should submit only information that you wish to make publicly available. If a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Andrew Clark at (202) 317–6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Request To Add Substance to the List

(a) *Overview.* A petition was filed pursuant to Rev. Proc. 2022–26 (2022–29 I.R.B. 90), as modified by Rev. Proc. 2023–20 (2023–15 I.R.B. 636), requesting that isooctyl alcohol be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (List). The petition requesting the addition of isooctyl alcohol to the List is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022–26. The publication of petition information in this notice of filing is not a determination and does not constitute Treasury Department or IRS confirmation of the accuracy of the information published.

(b) *Petition Content.*

(1) *Substance name:* Isooctyl alcohol.

(2) *Petitioner:* Exxon Mobil Corporation, an exporter of isooctyl alcohol.

(3) *Proposed classification numbers:*

(i) *HTSUS number:* 2905.16.00.50.

(ii) *Schedule B number:* 2905.16.0050.

(iii) *CAS number:* 68526–83–0.

(4) *Petition filing dates:*

(i) *Petition filing date for purposes of making a determination:* May 1, 2025.

(ii) *Petition filing date for purposes of section 11.02 of Rev. Proc. 2022–26, as modified by section 3 of Rev. Proc. 2023–20:* July 1, 2022.

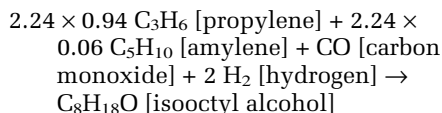
(5) *Description from petition:* Isooctyl alcohol is a branched alcohol used in applications such as surfactant.

Isooctyl alcohol is produced using propylene. Taxable chemicals constitute 68.10 percent by weight of the materials used to produce this substance.

(6) *Process identified in petition as predominant method of production of substance:* Isooctyl alcohol is produced in an oxonation reaction. Plasticizer alcohols, including isooctyl alcohol, are derived from the oxo reaction with branched olefins. Refinery-connected polygas units generate many of these olefins as purified cuts or fractions. For example, isooctyl alcohol is produced from heptene, which is an isomeric mixture of C7 olefins that are derived from the reaction of propylene and butylenes. The extent of branching in heptane depends on the reaction conditions and feedstock ratio at the polygas units. Since these conditions are variable, the specifications of the alcohol product may vary among producers.

The hydrogen used for these reactions are not produced from steam-methane reforming. The source of H₂ is from POx reactor, which feeds liquids, not methane. The POx process is an industrial process that converts hydrocarbons feeds into syngas (a combination of H₂ and CO gas). The hydrocarbon feed is in the liquid state. The unit feeds a variety of liquid hydrocarbons such as paraffins, olefins, and aromatics in the C5–C20 range, obtained from the refinery pipestills and other chemicals units.

(7) *Stoichiometric material consumption equation, based on process identified as predominant method of production:*



(8) *Tax rate calculated by Petitioner, based on Petitioner's conversion factors for taxable chemicals used in production of substance:*

(i) *Tax rate:* \$6.62 per ton.

(ii) *Conversion factors:* 0.68 for propylene.

(9) *Public docket number:* IRS–2025–0052.

Michael Beker,

Senior Counsel (Energy, Credits, and Excise Tax), IRS Office of Chief Counsel.

[FR Doc. 2025–08707 Filed 5–15–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Claim for Refund of Income Tax Return Preparer Penalties

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information collection requirements related to claim for refund of income tax return preparer penalties.

DATES: Written comments should be received on or before July 15, 2025 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB control number 1545–0240, Claim for Refund of Income Tax Return Preparer Penalties, in the subject line of the message.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at Kerry.L.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Claim for Refund of Income Tax Return Preparer Penalties.

OMB Number: 1545–0240.

Form Number: 6118.

Abstract: Form 6118 is used by tax return preparers to file for a refund of penalties incorrectly charged. The information enables the IRS to process the claim and have the refund issued to the tax return preparer.

Current Actions: There are no changes to the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 5,000.

Estimated Time per Respondent: 1 hour, 8 minutes.

Estimated Total Annual Burden Hours: 5,700 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 9, 2025.

Kerry L. Dennis,
Tax Analyst.

[FR Doc. 2025-08700 Filed 5-15-25; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; Requesting Comments Reporting of Health Insurance Coverage

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The IRS, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is

soliciting comments concerning Form 1094-B, Transmittal of Health Coverage Information Returns and Form 1095-B, Health Coverage.

DATES: Written comments should be received on or before July 15, 2025 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB Control No. 1545-2252 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Marcus McCrary, (470) 769-2001, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at marcus.w.mccrary@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Reporting of Health Insurance Coverage.

OMB Control Number: 1545-2252.

Form Number: Form 1094-B and 1095-B.

Regulation Project Number: TD 9660.

Abstract: Treasury Decision (TD) 9660 imposes the reporting requirement under section 1502 of the Affordable Care Act (section 6055 of the Internal Revenue Code) on health insurance issuers, employer-sponsored self-insured plans and government-sponsored programs that provide minimum essential coverage. The IRS developed Form 1095-B, Health Coverage, to report this information about individuals who are covered by minimum essential coverage. Form 1094-B, Transmittal of Health Coverage Information Returns, serves as a transmittal for Form 1095-B.

Current Actions: There is no change to the previously approved collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and state, local, or tribal governments.

Estimated Number of Responses: 570,000.

Estimated Time per Respondent: 11 minutes.

Estimated Total Annual Burden Hours: 104,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 7, 2025.

Marcus W. McCrary,
Tax Analyst.

[FR Doc. 2025-08746 Filed 5-15-25; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for Tests for Determining Whether an Obligation Is Principally Secured

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning modifications of commercial mortgage loans held by a real estate mortgage investment conduit.

DATES: Written comments should be received on or before July 15, 2025 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 60 days of publication of this notice to pra.comments@irs.gov. Please include, "OMB Number: 1545–2110—Public Comment Request Notice" in the Subject line. Requests for additional information or copies of this collection can be directed to Ronald J. Durbala, at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Obligations principally secured by an interest in real property.

OMB Number: 1545–2110.

Form Number: TD 9463.

Abstract: This collection covers final regulations under section 1.860G–2 that expand the list of permitted loan modifications to include certain modifications that are often made to commercial mortgages. The collection of information in this regulation is in section 1.860G–2(b) (7). To establish that the 80-percent test is met at the time of modification, the servicer must obtain an appraisal or some other form of commercially reasonable valuation (the appraisal requirement). This information is required to show that modifications to mortgages permitted will not cause the modified mortgage to cease to be a qualified mortgage.

Current Actions: There is no change to the burden previously approved.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 375.

Estimated Time per Respondent: 8 hrs.

Estimated Total Annual Burden Hours: 3,000.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: May 12, 2025.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2025–08745 Filed 5–15–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Superfund Tax on Chemical Substances; Request To Modify List of Taxable Substances; Notice of Filing for Isodecyl Alcohol

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of filing and request for comments.

SUMMARY: This notice of filing announces that a petition has been filed requesting that isodecyl alcohol be added to the list of taxable substances. This notice of filing also requests comments on the petition. This notice of filing is not a determination that the list of taxable substances is modified.

DATES: Written comments and requests for a public hearing must be received on or before July 15, 2025.

ADDRESSES: Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate public docket number IRS–2025–0050 or Isodecyl Alcohol) by following the

online instructions for submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal.

Alternatively, comments and requests for a public hearing may be mailed to: Internal Revenue Service, Attn: CC:PA:01:PR (Notice of Filing for Isodecyl Alcohol), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. You should submit only information that you wish to make publicly available. If a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Andrew Clark at (202) 317–6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Request To Add Substance to the List

(a) *Overview.* A petition was filed pursuant to Rev. Proc. 2022–26 (2022–29 I.R.B. 90), as modified by Rev. Proc. 2023–20 (2023–15 I.R.B. 636), requesting that isodecyl alcohol be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (List). The petition requesting the addition of isodecyl alcohol to the List is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022–26. The publication of petition information in this notice of filing is not a determination and does not constitute Treasury Department or IRS confirmation of the accuracy of the information published.

(b) *Petition Content.*

(1) *Substance name:* Isodecyl alcohol.

(2) *Petitioner:* Exxon Mobil Corporation, an exporter of isodecyl alcohol.

(3) *Proposed classification numbers:*

(i) *HTSUS number:* 3823.70.60.00.

(ii) *Schedule B number:* 3823.70.6000.

(iii) *CAS number:* 68526–85–2.

(4) *Petition filing dates:*

(i) *Petition filing date for purposes of making a determination:* May 1, 2025.

(ii) *Petition filing date for purposes of section 11.02 of Rev. Proc. 2022–26, as modified by section 3 of Rev. Proc. 2023–20:* July 1, 2022.

(5) *Description from petition:* Isodecyl alcohol is a branched alcohol used in applications such as surfactant.

Isodecyl alcohol is produced using propylene. Taxable chemicals constitute

72.00 percent by weight of the materials used to produce this substance.

(6) *Process identified in petition as predominant method of production of substance:* Isodecyl alcohol is produced in an oxonation reaction. Plasticizer alcohols, including isodecyl alcohol, are derived from the oxo reaction with branched olefins. Refinery-connected polygas units generate many of these olefins as purified cuts or fractions.

The hydrogen used for these reactions are not produced from steam-methane reforming. The source of H₂ is from Pox reactor, which feeds liquids, not methane. The Pox process is an industrial process that converts hydrocarbons feeds into syngas (a combination of H₂ and CO gas). The hydrocarbon feed is in the liquid state. The unit feeds a variety of liquid hydrocarbons such as paraffins, olefins, and aromatics in the C₅–C₂₀ range, obtained from the refinery pipestills and other chemicals units.

(7) *Stoichiometric material consumption equation, based on process identified as predominant method of production:*

$$2.88 \times 0.94 \text{ C}_3\text{H}_6 [\text{propylene}] + 2.88 \times 0.06 \text{ C}_5\text{H}_{10} [\text{amylenes}] + \text{CO} [\text{carbon monoxide}] + 2 \text{ H}_2 [\text{hydrogen}] \rightarrow \text{C}_{10}\text{H}_{22}\text{O} [\text{isodecyl alcohol}]$$

(8) *Tax rate calculated by Petitioner, based on Petitioner's conversion factors for taxable chemicals used in production of substance:*

(i) *Tax rate:* \$7.01 per ton.
(ii) *Conversion factors:* 0.72 for propylene.

(9) *Public docket number:* IRS–2025–0050.

Michael Beker,

Senior Counsel (Energy, Credits, and Excise Tax), IRS Office of Chief Counsel.

[FR Doc. 2025–08708 Filed 5–15–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Superfund Tax on Chemical Substances; Request To Modify List of Taxable Substances; Notice of Filing for IsoDecyl Benzoate

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of filing and request for comments.

SUMMARY: This notice of filing announces that a petition has been filed requesting that isodecyl benzoate be added to the list of taxable substances. This notice of filing also requests comments on the petition. This notice of

filing is not a determination that the list of taxable substances is modified.

DATES: Written comments and requests for a public hearing must be received on or before July 15, 2025.

ADDRESSES: Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate public docket number IRS–2025–0051 or IsoDecyl Benzoate) by following the online instructions for submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal.

Alternatively, comments and requests for a public hearing may be mailed to: Internal Revenue Service, Attn: CC:PA:01:PR (Notice of Filing for IsoDecyl Benzoate), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. You should submit only information that you wish to make publicly available. If a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Andrew Clark at (202) 317–6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Request To Add Substance to the List

(a) *Overview.* A petition was filed pursuant to Rev. Proc. 2022–26 (2022–29 I.R.B. 90), as modified by Rev. Proc. 2023–20 (2023–15 I.R.B. 636), requesting that isodecyl benzoate be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (List). The petition requesting the addition of isodecyl benzoate to the List is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022–26. The publication of petition information in this notice of filing is not a determination and does not constitute Treasury Department or IRS confirmation of the accuracy of the information published.

(b) *Petition Content.*

(1) *Substance name:* IsoDecyl Benzoate.

(2) *Petitioner:* Exxon Mobil Corporation, an exporter of isodecyl benzoate.

(3) *Proposed classification numbers:*

(i) *HTSUS number:* 2916.31.50.00.

(ii) *Schedule B number:* 2916.31.0002.

(iii) *CAS number:* 131298–44–7.

(4) *Petition filing dates:*

(i) *Petition filing date for purposes of making a determination:* May 1, 2025.

(ii) *Petition filing date for purposes of section 11.02 of Rev. Proc. 2022–26, as modified by section 3 of Rev. Proc. 2023–20:* July 1, 2022.

(5) *Description from petition:* Isodecyl benzoate is phthalate-free plasticizer on benzoate basis used in soft PVC processing.

Isodecyl benzoate is produced using propylene and toluene. Taxable chemicals constitute 69.10 percent by weight of the materials used to produce this substance.

(6) *Process identified in petition as predominant method of production of substance:* Isodecyl benzoate is produced via esterification. The isodecyl benzoate ester is made by reacting primary isodecyl (C₁₀) alcohol with Benzoic Acid. The ester is produced by esterification of 1 mole of isodecyl C₁₀ alcohol and 1 mole of Benzoic Acid in the presence of a catalyst.

By using excess alcohol (up to 30% molar excess of C₁₀ alcohol) and removing the water, the equilibrium is shifted towards the formation of the ester. The reactants are charged into a reactor and heated up. The reaction rate is accelerated by using, for example, tetra-n-butyl titanate introduced at high temperature (140 °C–250 °C), while removing the water formed.

Excess alcohol is distilled from the ester by vacuum prior to neutralization and recycled into subsequent batches. The final ester is purified by neutralizing with a base such as an aqueous solution of sodium carbonate. The remaining excess water is distilled off and the ester is then filtered using filter agents. The degree of purity of the ester is min 99.0 wt%.

(7) *Stoichiometric material consumption equation, based on process identified as predominant method of production:*

$$2.71 \text{ C}_3\text{H}_6 [\text{propylene}] + 0.17 \text{ C}_5\text{H}_{10} [\text{amylenes}] + \text{CO} [\text{carbon monoxide}] + 2 \text{ H}_2 [\text{hydrogen}] + \text{C}_6\text{H}_5\text{CH}_3 [\text{toluene}] + 1.5 \text{ O}_2 [\text{oxygen}] \rightarrow \text{C}_{17}\text{H}_{26}\text{O}_2 [\text{isodecyl benzoate}] + 2 \text{ H}_2\text{O} [\text{water}]$$

(8) *Tax rate calculated by Petitioner, based on Petitioner's conversion factors for taxable chemicals used in production of substance:*

(i) *Tax rate:* \$7.60 per ton.

(ii) *Conversion factors:* 0.43 for propylene, 0.35 for toluene.

(9) *Public docket number:* IRS–2025–0051.

Michael Beker,

Senior Counsel (Energy, Credits, and Excise Tax), IRS Office of Chief Counsel.

[FR Doc. 2025–08710 Filed 5–15–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Superfund Tax on Chemical Substances; Request To Modify List of Taxable Substances; Notice of Filing for Di-IsoNonyl Adipate

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of filing and request for comments.

SUMMARY: This notice of filing announces that a petition has been filed requesting that di-isononyl adipate be added to the list of taxable substances. This notice of filing also requests comments on the petition. This notice of filing is not a determination that the list of taxable substances is modified.

DATES: Written comments and requests for a public hearing must be received on or before July 15, 2025.

ADDRESSES: Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate public docket number IRS–2025–0048 or Di-IsoNonyl Adipate) by following the online instructions for submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal. Alternatively, comments and requests for a public hearing may be mailed to: Internal Revenue Service, Attn: CC:PA:01:PR (Notice of Filing for Di-IsoNonyl Adipate), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. You should submit only information that you wish to make publicly available. If

a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Andrew Clark at (202) 317–6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Request To Add Substance to the List

(a) *Overview.* A petition was filed pursuant to Rev. Proc. 2022–26 (2022–29 I.R.B. 90), *as modified by* Rev. Proc. 2023–20 (2023–15 I.R.B. 636), requesting that di-isononyl adipate be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (List). The petition requesting the addition of di-isononyl adipate to the List is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022–26. The publication of petition information in this notice of filing is not a determination and does not constitute Treasury Department or IRS confirmation of the accuracy of the information published.

(b) *Petition Content.*

(1) *Substance name:* Di-isononyl adipate.

The substance is also known as DINA.

(2) *Petitioner:* Exxon Mobil Corporation, an exporter of di-isononyl adipate.

(3) *Proposed classification numbers:*

(i) *HTSUS number:* 2917.12.20.00.

(ii) *Schedule B number:* 2917.12.2000.

(iii) *CAS number:* 33703–08–1.

(4) *Petition filing dates:*

(i) *Petition filing date for purposes of making a determination:* May 1, 2025.

(ii) *Petition filing date for purposes of section 11.02 of Rev. Proc. 2022–26, as modified by section 3 of Rev. Proc. 2023–20:* July 1, 2022.

(5) *Description from petition:* Di-IsoNonyl Adipate (“DINA”) is a light colored and oily liquid plasticizer which is used in polymeric systems based on vinyl, nitrocellulose, and rubber. In these systems, DINA adds flexibility to products at low temperatures. Other features would include good electrical properties, good stability to heat, impact resistance, and good resistance to weathering.

DINA is produced using propylene, benzene, and nitric acid. Taxable chemicals constitute 79.20 percent by

weight of the materials used to produce this substance.

(6) *Process identified in petition as predominant method of production of substance:* Di-isononyl adipate is produced via esterification. The di-isononyl adipate di-ester is made by reacting primary isononyl (C9) alcohol with adipic acid. The ester is produced by esterification of 2 moles of isononyl C9 alcohol and 1 mole of Adipic Acid in the presence of a catalyst.

By using excess alcohol (up to 30% molar excess of C9 alcohol) and removing the water, the equilibrium is shifted towards the formation of the di-ester. The reactants are charged into a reactor and heated up. The reaction rate is accelerated by using, for example, tetra-n-butyl titanate introduced at high temperature (140 °C–250 °C), while removing the water formed.

Excess alcohol is distilled from the ester by vacuum prior to neutralization and recycled into subsequent batches. The final ester is purified by neutralizing with a base such as an aqueous solution of sodium carbonate. The remaining excess water is distilled off and the ester is then filtered using filter agents. The degree of purity of the ester is min 99.0 wt%.

(7) *Stoichiometric material consumption equation, based on process identified as predominant method of production:*

$$4.82 \text{ C}_3\text{H}_6 [\text{propylene}] + 0.3 \text{ C}_5\text{H}_{10} [\text{amylene}] + 2 \text{ CO} [\text{carbon monoxide}] + 7 \text{ H}_2 [\text{hydrogen}] + \text{C}_6\text{H}_6 [\text{benzene}] + 0.5 \text{ O}_2 [\text{oxygen}] + 2 \text{ HNO}_3 [\text{nitric acid}] \rightarrow \text{C}_{24}\text{H}_{46}\text{O}_4 [\text{di-isononyl adipate}] + 4 \text{ H}_2\text{O} [\text{water}] + \text{N}_2\text{O} [\text{nitrous oxide}]$$

(8) *Tax rate calculated by Petitioner, based on Petitioner’s conversion factors for taxable chemicals used in production of substance:*

(i) *Tax rate:* \$7.07 per ton.

(ii) *Conversion factors:* 0.51 for propylene, 0.20 for benzene, 0.32 for nitric acid.

(9) *Public docket number:* IRS–2025–0048.

Michael Beker,

Senior Counsel (Energy, Credits, and Excise Tax), IRS Office of Chief Counsel.

[FR Doc. 2025–08706 Filed 5–15–25; 8:45 am]

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 219

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Pacific Islands Fisheries Science Center Fisheries Research; Direct-Interim-Final Rule

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 219**

[Docket No. 250505–0076]

RIN 0648–BG31

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Pacific Islands Fisheries Science Center Fisheries Research

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

ACTION: Final rule; notice of issuance of letter of authorization.

SUMMARY: NMFS' Office of Protected Resources (OPR), upon request from NMFS' Pacific Islands Fisheries Science Center (PIFSC), hereby issues regulations to govern the unintentional taking of marine mammals incidental to fisheries research conducted in multiple specified geographical regions over the course of 5 years. These regulations, which allow for the issuance of Letters of Authorization (LOAs) for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking. Upon publication of this final rule, NMFS will issue an LOA to PIFSC for the effective period of the final rule.

DATES: Effective May 16, 2025, the sunset date of January 15, 2026, for part 219 added at 86 FR 3868, Jan. 15, 2021, is removed. This rule is effective as of May 16, 2025, except for amendatory instruction 4, which is effective from May 16, 2025 through May 15, 2030.

ADDRESSES: A copy of PIFSC's application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-pifsc-fisheries-and-ecosystem-research. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Benjamin Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:**Availability**

A copy of PIFSC'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-noaa-fisheries-pifsc-fisheries-and-ecosystem-research>. In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

Purpose and Need for Regulatory Action

These regulations establish a framework under the authority of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) to allow for the authorization of take of marine mammals incidental to the PIFSC's fisheries research activities in the Hawaiian Archipelago, Mariana Archipelago, American Samoa Archipelago, and Western and Central Pacific Ocean.

We received an application from the PIFSC requesting 5-year regulations and an LOA to take multiple species of marine mammals. Take would occur by Level B harassment incidental to the use of active acoustic devices, as well as by visual disturbance of pinnipeds, and by Level A harassment, serious injury, or mortality incidental to the use of fisheries research gear. Please see Background below for definitions of harassment.

Legal Authority for the Final Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce 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 for up to 5 years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the "least practicable adverse impact" on the affected species or stocks and their habitat (see the discussion below in the Mitigation section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I, provide the legal basis for issuing this rule containing 5-year regulations, and for any subsequent LOAs. As directed by this legal authority, this rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Regulations

Following is a summary of the major provisions of this final rule regarding PIFSC fisheries research activities. These measures include, but are not limited to:

- Monitoring the sampling areas to detect the presence of marine mammals before and during deployment of certain research gear;
- Delaying setting or haul in gear if marine mammal interaction may occur;
- Hauling gear immediately if marine mammals may interact with gear; and
- Implementing the mitigation strategy known as the "move-on rule," which incorporates best professional judgment, when necessary during certain research fishing operations.

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 issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other "means of effecting the least practicable adverse impact" on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as "mitigation"); and set forth requirements pertaining to the mitigation, monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On November 30, 2015, we received an adequate and complete application

from PIFSC requesting authorization to take small numbers of marine mammals incidental to fisheries research activities. On December 7, 2015 (80 FR 75997), we published a notice of receipt of PIFSC's application in the **Federal Register**, requesting comments and information related to the PIFSC request. The public comment period was open for 30 days, from December 7, 2015, through January 1, 2016. We received joint comments from The Humane Society of the United States and Whale and Dolphin Conservation (HSUS/WDC). These comments were considered in development of the proposed rule and are available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-pifsc-fisheries-and-ecosystem-research>.

In accordance with the MMPA, we published a notice of proposed rulemaking in the **Federal Register** on March 22, 2021 (86 FR 15298), and requested comments and information from the public. The public comment period was open for thirty days, from March 22, 2021, through April 21, 2021. We did not receive any comments on the proposed rule.

As explained below, subsequent to the publication of the proposed rule, PIFSC advised NMFS of an additional research program that was not identified in the proposed rule. Despite the time that has elapsed since the PIFSC's application was initially received and publication of the proposed rule and although the additional research program was not identified in the proposed rule, we believe it is unnecessary to engage in another round of notice and comments because the description of the specified activity that can be expected to result in incidental take of marine mammals, the type of incidental take authorization that is being requested, the method of incidental take, and the anticipated impact of the activity on the species or stock of marine mammals remains unchanged. Further, new science and information necessary to evaluate this application that has become available since the PIFSC submitted their application has been considered and is addressed in this rule. NMFS has reviewed newly available information since publication of the proposed rule for comment, including updated SARs and scientific literature, and determined that there is no new information that would warrant new solicitation of public comment.

PIFSC plans to conduct fisheries research using trawl gear used at various levels in the water column, hook-and-line gear (including longlines with

multiple hooks, bottomfishing, and trolling), and deployed instruments (including various traps). If a marine mammal interacts with gear deployed by PIFSC, the outcome could potentially be Level A harassment, serious injury (*i.e.*, any injury that will likely result in mortality), or mortality. Although any given gear interaction could result in an outcome less severe than mortality or serious injury, we do not have sufficient information to allow parsing these potential outcomes. Therefore, PIFSC presents a pooled estimate of the number of potential incidents of gear interaction and, for analytical purposes we assume that gear interactions would result in serious injury or mortality. PIFSC also uses various active acoustic devices while conducting fisheries research, and use of some of these devices has the potential to result in Level B harassment of marine mammals. Level B harassment of pinnipeds hauled out may also occur, as a result of visual disturbance from vessels conducting PIFSC research.

The LOA issued under this final rule authorizes take of small numbers of marine mammals of 15 species by serious injury or mortality (hereafter referred to as M/SI) or Level A harassment incidental to gear interactions, and of 20 species by Level B harassment incidental to use of active acoustic devices and vessel operation during fisheries and ecosystem research.

Description of the Specified Activity

Overview

The Federal Government has a responsibility to conserve and protect living marine resources in U.S. waters and has also entered into a number of international agreements and treaties related to the management of living marine resources in international waters outside the United States. NOAA has the primary responsibility for managing marine finfish and shellfish species and their habitats, with that responsibility delegated within NOAA to NMFS.

In order to direct and coordinate the collection of scientific information needed to make informed fishery management decisions, Congress created six regional fisheries science centers, each a distinct organizational entity and the scientific focal point within NMFS for region-based Federal fisheries-related research. This research is aimed at monitoring fish stock recruitment, abundance, survival and biological rates, geographic distribution of species and stocks, ecosystem process changes, and marine ecological research. The PIFSC is the research arm of NMFS in the Pacific Islands region of

the United States. The PIFSC conducts research and provides scientific advice to manage fisheries and conserve protected species in the geographic research area described below and provides scientific information to support the Western Pacific Fishery Management Council and other domestic and international fisheries management organizations.

The PIFSC collects a wide array of information necessary to evaluate the status of exploited fishery resources and the marine environment. PIFSC scientists conduct fishery-independent research onboard NOAA-owned and operated vessels or on chartered vessels. Such research may also be conducted by cooperating scientists on non-NOAA vessels when the PIFSC helps fund the research. The PIFSC plans to administer and conduct multiple survey programs over the 5-year period, within 4 separate research areas (some survey programs are conducted across more than 1 research area; see table 1–1 in PIFSC's application). Surveys identified and described here are a representative but not necessarily exclusive list of the research that PIFSC may undertake during the period for which this authorization will be valid. The gear types used fall into several categories: towed trawl nets fished at various levels in the water column, hook-and-line gear (including longlines with multiple hooks, bottomfishing, and trolling), deployed instruments (including various traps), and other instruments. Only use of trawl nets, longlines, and deployed instruments are likely to result in interaction with marine mammals via entanglement or hooking. Many of these surveys also use active acoustic devices that may result in Level B harassment.

Dates and Duration

The specified activity may occur at any time during the 5-year period of validity of the regulations. Dates and duration of individual surveys are inherently uncertain, based on congressional funding levels for the PIFSC, weather conditions, or ship contingencies. In addition, cooperative research is designed to provide flexibility on a yearly basis in order to address issues as they arise. Some cooperative research projects last multiple years or may continue with modifications. Other projects only last 1 year and are not continued. Most cooperative research projects go through an annual competitive selection process to determine which projects should be funded based on proposals developed by many independent researchers and fishing industry participants. PIFSC survey activity occurs during most

months of the year. Trawl surveys occur primarily during May through June and September but may occur during any month, and hook-and-line surveys generally occur during fall.

Specified Geographical Region

The PIFSC conducts research in the Pacific Islands within four research areas: the Hawaiian Archipelago Research Area (HARA), the Mariana Archipelago Research Area (MARA), the American Samoa Archipelago Research Area (ASARA), and the Western and Central Pacific Research Area (WCPRA). The first three research areas are considered to extend approximately 24 nautical miles (nmi; 44.5 kilometers (km)) from the baseline of the respective archipelagos (*i.e.*, approximately the outer limit of the contiguous zone). The WCPRA is considered to include the remainder of archipelagic U.S. exclusive economic zone (EEZ) waters, the high seas between the archipelagic U.S. EEZ waters, and waters around the Pacific

remote islands. Please see figures 1.2 and 2.1 through 2.4 in the PIFSC application for maps of the four research areas. Detailed descriptions of the PIFSC's research areas were provided in the notice of proposed rulemaking (86 FR 15298, March 22, 2021). Those descriptions remain accurate and sufficient, and we refer the reader to that document rather than reprinting the information here.

Detailed Description of Activities

A detailed description of the PIFSC's planned activities was provided in the notice of proposed rulemaking (86 FR 15298, March 22, 2021) and is not repeated here except for the list of surveys provided in table 1. No changes aside from the addition of one research program, as described below, have been made to the specified activities described therein.

After publication of the proposed rulemaking, PIFSC informed us of an additional research program that was not identified in the proposed

rulemaking. The Marine Turtle Biology and Assessment Program (MTBAP) conducts research with the potential to cause incidental disturbance of Hawaiian monk seals only. No take of any other species of marine mammals is expected to occur incidental to MTBAP research activities. The MTBAP engages in long-term monitoring of sea turtles in order to understand population status, abundance, and trends, including permitted directed research which may result in incidental disturbance of seals present near turtles that are the target of the research activities. MTBAP conducts research activities year round in the HARA, with a peak in activities occurring typically between March and September each year when Northwestern Hawaiian Islands (NWHI) field camps are deployed. Most field work that may incidentally disturb Hawaiian monk seals occurs on shore where seals haul out, and in the nearshore waters, while operating a vessel, where seals may be swimming.

TABLE 1—SUMMARY DESCRIPTION OF PIFSC FISHERIES AND ECOSYSTEM RESEARCH ACTIVITIES IN THE PACIFIC ISLANDS REGION

Survey name	Survey description	General area of operation	Season, frequency & yearly days at sea (DAS)	Gear used	Gear details	Total number of samples (approximated)
Sampling Pelagic Stages of Insular Fish Species.	Results of sampling inform life history and stock structure studies for pelagic larval and juvenile stage specimens of insular fish. Additional habitat information is also collected. Target species are snapper, grouper, and coral reef fish species within the 0–175 m depth range.	- HARA, MARA, ASARA, WCPRA. 3–200 nmi from shore.	- Year-round - HARA: up to 20 Days at Sea (DAS). - MARA, ASARA, WCPRA: up to 30 DAS approximately once in research area every three years. - Midwater trawls are conducted at night, surface trawls are conducted day and night.	- Cobb trawl (midwater trawl) or Isaacs-Kidd 10-foot (ft) (3-meter (m)) net (midwater trawl). - Isaacs-Kidd 6-ft (1.8-m) net (surface trawl). - Dip net (surface). - Trawl mounted OES Netmind (midwater).	- Tow speed: 2.5–3.5 kt - Duration: 60–240 minutes (min). - Depth: deployed at various depths during same tow to target fish at different water depths, usually to 250 m. - Tow speed: 2.5–3.5 kts. - Duration: 60 min. - Depth: Surface.	40 tows per survey per year. 40 tows per survey per year.
Spawning Dynamics of Highly Migratory Species.	Early life history studies provide larval stages for population genetic studies and include the characterization of habitat for early life stages of pelagic species. Egg and larval collections are taken in surface waters using a variety of plankton gear, primarily Isaacs-Kidd 6-ft (1.8-m) surface trawl, but also sometimes including 1-m ring net and surface neuston net.	- HARA, MARA, ASARA, WCPRA. 1–25 nmi from shore.	- Year-round - HARA: up to 25 DAS. - MARA, ASARA, WCPRA: up to 25 DAS approximately once in research area every three years. - Surface trawls are conducted day and night.	- Isaacs-Kidd 6-ft (1.8-m) net (surface). - Neuston tows (surface). 1-m ring net (surface)	- Tow speed: 2.5–3.5 kts - Duration: 60 min. - Depth: Surface. - Tow Speed: 2.5–3.5 kts - Duration: 30–60 min. - Depth: 0–3 m.	140 tows per survey per year. 140 tows per survey per year.
Cetacean Ecology Assessment.	Survey transects conducted in conjunction with cetacean visual and acoustic surveys within the Hawaii EEZ to develop ecosystem models for cetaceans. Sampling also includes active acoustics to determine relative biomass density of sound scattering layers; trawls to sample within the scattering layers; cetacean observations; surface and water column oceanographic measurements and water sample collection.	HARA, MARA, ASARA, WCPRA.	- Variable timing, depending on ship availability, up to 180 DAS. - Usually conducted in non-winter months. - Midwater trawls are conducted at night, surface trawls are conducted day and night.	- Cobb trawl (midwater trawl). - Small-mesh towed net (surface trawl).	- Tow speed: 3 kts - Duration: 60–240 min. - Tow Speed: 2.5–3.5 kts - Duration: 30–60 min.	180 tows total per year. 180 tows per research area.
Marine Debris Research and Removal.	Surface and midwater plankton tows to quantify floating microplastic in seawater.	HARA, MARA, ASARA, WCPRA.	- Annually, or on an as-needed basis, up to 30 DAS. - Surface trawls are conducted day and night. - Unmanned aircraft surveys are conducted during the day or night.	Neuston, or similar, plankton nets surface towed alongside ship and/or small boats.	- Tow Speed: varied - Duration: <1 hour.	Up to 250 tows per survey per year.

TABLE 1—SUMMARY DESCRIPTION OF PIFSC FISHERIES AND ECOSYSTEM RESEARCH ACTIVITIES IN THE PACIFIC ISLANDS REGION—Continued

Survey name	Survey description	General area of operation	Season, frequency & yearly days at sea (DAS)	Gear used	Gear details	Total number of samples (approximated)
Insular Fish Life History Survey and Studies.	Provide size ranges of deep-water eteline snappers, groupers, and large carangids to determine sex-specific length-at-age growth curves, longevity estimates, length and age at 50% reproductive maturity within the Bottomfish Management Unit Species (BMUS) in Hawai'i and the other Pacific Islands regions. Specimens are collected in the field and sampled at markets.	- HARA, MARA, ASARA, WCPRA. 0.2–5 nmi from shore	- HARA: July–September, up to 15 DAS/yr. - Other areas: Year-round, up to 30 DAS for each research area once every three years. - Day and night.	Hook-and-line	- Hand line, electric or hydraulic reel. - Each operation involves 1–3 lines with 4–6 hooks per line; soaked 1–30 min. - Squid bait on circle hooks (typically 10/0 to 12/0).	- HARA: 350 operations per year. - Other areas: 240 operations per year for each research area.
Pelagic Troll and Handline Sampling.	Surveys would be conducted to collect life history and molecular samples from pelagic species. Other target species would be tagged-and-released. Different tags would be used depending upon the species and study, but could include: passive, archival, ultrasonic, and satellite tags.	- HARA, MARA, ASARA. 0 to 24 nmi from shore (excluding any special resource areas).	Variable, up to 14 DAS Day and night.	Pelagic troll and handline (hook and line) fishing.	- Troll fishing with up to 4 troll lines each with 1–2 baited hooks or 1–2 hook trolling lures at 4–10 kts. - Pelagic handline (hook-and-line) fishing at 10–100 m midwater depths, with hand, electric, or hydraulic reels. Up to 4 lines. Each line is baited with 4 hooks.	A total of up to 2 operations of any of these gear types per DAS, totaling 28 operations (all types combined) for the survey.
Insular fish Abundance Estimation Comparison Surveys.	Comparison of fishery-independent methods to survey bottomfish assemblages in the Main Hawaiian Islands: coordinated research between PIFSC and various partners Day and night surveys are used to develop fishery-independent methods to assess stocks of economically important insular fish.	HARA, MARA, ASARA, WCPRA.	- Variable, up to 30 DAS per research area per year. - HARA surveyed annually, ASARA, WCPRA surveyed every 3 years. - Sampling occurs day and night	Hook-and-line	- Hand, electric, hydraulic reels - Each vessel fishes 2 lines. Each line is baited with 4–6 hooks. 1–30 minutes per fishing operation.	- HARA: 7,680 operations per year. - MARA: 1,920 every 3rd year (average) 640 operations per year). - ASARA: 1,920 every 3rd year (average) 640 per year). - WCPRA: 1,920 every 3rd year (average 640 per year).
Kona Integrated Ecosystem Assessment Cruise.	Survey transects conducted off the Kona coast and Kohala Shelf area to develop ecosystem models for coral reefs, socioeconomic indicators, circulation patterns, larval fish transport and settlement. Sampling includes active acoustics to determine relative biomass density of sound scattering layers: trawls to sample within the scattering layers; cetacean observations; surface and water column oceanographic measurements and water sample collection.	HARA: 2–10 nmi from shore.	- Variable timing, depending on ship availability, up to 10 DAS. - Day and night.	- Cobb trawl (midwater trawl). - Hook-and-line	- Tow speed: 3 kts - Duration: 60–240 min. - Electric or hydraulic reel. Each operation involves 1–3 lines, with squid lures, soaked 10–60 min at depths between 200m to 600m.	15–20 tows/yr. - No more than 50 hours of effort. - Approximately 10 mesopelagic squid caught per yr.

Sampling of Juvenile-stage Bottomfish via Settlement Traps.	Sampling activity to capture juvenile recruits of eteline snappers and grouper that have recently transitioned from the pelagic to demersal habitat. Target species include Deep-7 bottomfish and the settlement habitats these stages are associated with.	- HARA 0.2–5 nmi from shore.	- July–September - Up to 25 DAS Day and night.	Trap (settlement)	Cylindrical traps are clipped throughout the water column onto a vertical line anchored on bottom at up to 400 m, supported by a surface float.	10 traps per line set; up to 4 line sets soaked per day, from overnight up to 3 days. - Up to 100 lines of traps set per yr. - Catch of 2500 juvenile stage bottomfish per year.
Mariana Resource Survey ..	Sampling activity to quantify baseline bottomfish and reef fish resources in the Mariana Archipelago Research Area. Various artificial habitat designs, Cobb trawl and IK trawls will be developed, enclosed in mesh used to retain captures, and evaluated collect pelagic-stage specimens of reef fish and bottomfish species. Traps will be primarily set in mesophotic habitats (50–200 m depths) and in the quality of each habitat for recent recruits. deep-slope bottomfish habitats (200–500m depths).	- MARA 0–25 nmi from shore.	- May–August Up to 102 DAS (once every three years). - Midwater trawls are conducted at night, surface trawls are conducted day and night. - In-water activities are conducted during the day. All others are day and night.	- Large-mesh Cobb midwater trawl. - Isaacs-Kidd midwater trawl. - Small-mesh surface trawl nets (Isaacs-Kidd, neuston, ring, bongo nets). - Traps (Kona crab, enclosure).	- Tow speed: 3 kts - Duration: 60–240 min trawls; 2 tows per night. - Depth(s): deployed at various depths during same tow to target fish at different water depths, usually between 100 m and 200m. - Tow speed: 3 kts - Duration: up to 60 min. - Depth: 0–200 m. - Up to ten Kona crab traps can be tied together with a buoy on the end net for retrieval. They are left for approximately 20 min. Two strings of six enclosure traps each would be deployed at night on sand, rubble and pavement (i.e., not coral) substrate, and retrieved the next morning. - Up to 20 traps per string, separated by 20 fathoms of ground line; two depths 10–35 fathoms. - Up to 2 strings per DAS. - Electric or hydraulic reel: each operation involves 1–3 lines, with squid lures, soaked 10–60 min at depths between 200 m to 600 m.	15–20 tows per survey per year 15–20 tows (any combination of the nets described). 25 gear sets per cruise. - Up to 400 strings set per year. 1,000 sets per survey.
Pelagic Longline, Troll, and Handline Gear Trials.	Investigate effectiveness of various types of hooks, hook guards, gear configurations, or other modified fishing practices for reducing the bycatch of non-target species and retaining or increasing target catch.	- HARA - Longline fishing would occur outside of: (1) all longline exclusions zones in the Hawai'i EEZ; (2) the Insular False Killer Whale range, and (3) all special resource areas. - Longline fishing would occur up to approximately 500 nmi from the shores of the Hawai'i Archipelago. - Trolling and handline occurs 25 to 500 nmi from shore (excluding any special resource areas).	21 DAS - Day and night.	- Pelagic longline - Trolling, and handline (hook-and-line).	- Soak time: 600–1800 min - Troll fishing with up to 4 troll lines each with 1–2 baited hooks or 1–2 hook troll lures at 4–10 kts. - Pelagic handline (hook-and-line) fishing at 10–100 m midwater depths, with hand, electric, or hydraulic reels. Up to 4 lines. Each line is baited with 4 hooks. - Up to 4 hrs per troll or handline operation.	- Up to 21 longline operations per year. - Up to 21 troll or handline (combined) operations per year.

TABLE 1—SUMMARY DESCRIPTION OF PIFSC FISHERIES AND ECOSYSTEM RESEARCH ACTIVITIES IN THE PACIFIC ISLANDS REGION—Continued

Survey name	Survey description	General area of operation	Season, frequency & yearly days at sea (DAS)	Gear used	Gear details	Total number of samples (approximated)
Pelagic Oceanographic Cruise.	Investigate physical (e.g., fronts) and biological features that define the habitats for important commercial and protected species of the North Pacific Ocean. Sampling also includes active acoustics to determine relative biomass density of sound scattering layers; trawls to sample within the scattering layers; surface and water column oceanographic measurements and water sample collection.	- WCPRA 25–1000 nmi from shore in any direction.	- Annual (season variable) Up to 30 DAS. - Midwater trawls are conducted at night, surface trawls are conducted day and night. - All other activities are conducted day and night.	- Large-mesh Cobb midwater trawl. - Plankton drop net (stationary surface sampling). - Small-mesh surface and midwater trawl nets (Isaacs-Kidd, neuston, ring, bongo nets).	- Tow speed: 3 kts - Duration: 60–240 min. 1 m diameter plankton drop net would be deployed down to 100 m. - Duration: up to 60 min. - Depth: 0–200 m.	20 tows per year, alternating with Kona ILEA cruise 4 liters of micronekton per tow. 20 drops per year (collections would be less than one liter of plankton). 15–20 tows (any combination of the nets described) <1 liter of organisms per tow.
Lagoon Ecosystem Characterization.	Measure the abundance and distribution of reef fish (including juvenile bumphead parrotfish).	WCPRA	- Up to 14 DAS - Conducted during the day.	- Divers with hand net or speargun. - Hook-and-line	- SCUBA, snorkel, 12-inch diameter small mesh hand net. - Standard rod and reel using lures or fish bait from shoreline or small boat.	10 dives per survey. 10 fin clips collected for genetic analyses. 1–30 minute casts. 60 casts per survey.

Comments and Responses

We published a notice of proposed rulemaking in the **Federal Register** on March 22, 2021 (86 FR 15298), and requested comments and information from the public. During the 30-day comment period, we did not receive any public comments.

Changes From Proposed Rule to Final Rule

As discussed above, we have included evaluation of a PIFSC research program (MTBAP) not previously identified in the proposed rulemaking. As detailed in the Estimated Take section, later in this document, anticipated impacts from these research activities are not different in type from what has already been analyzed under the proposed rule, and the expected take of marine mammals is not increased as a result of our evaluation of these activities. There are no other changes from the proposed rule to this final rule.

Description of Marine Mammals in the Area of the Specified Activity

We have reviewed PIFSC's species descriptions—which summarize available information regarding status and trends, distribution and habitat preferences, behavior and life history, and auditory capabilities of the potentially affected species—for accuracy and completeness and refer the reader to sections 3 and 4 of PIFSC's application, instead of reprinting the information here (note that PIFSC provides additional information regarding marine mammal observations around the Main Hawaiian Islands (MHI) in table 3.3 of their application, including information about group size and seasonality). Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; <https://www.fisheries.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 with expected potential for occurrence in the specified geographical regions where PIFSC plans to conduct the specified activity and

summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow the Society for Marine Mammalogy Committee on Taxonomy. PBR, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population, is discussed in greater detail later in this document (see the Negligible Impact Analysis and Determination section).

Stocks are not designated for most species in areas of the specified geographical regions outside of the Hawaiian EEZ. Therefore, while all species with expected potential for occurrence in the specified geographical regions are listed in table 2, the listed stocks are in most cases specific to the Hawaiian EEZ. The only exceptions are NMFS-designated stocks for the humpback whale, rough-toothed dolphin, spinner dolphin, and false killer whale in American Samoa (animals belonging to these stocks would occur in the ASARA), and a false killer whale stock designated for Palmyra Atoll (animals belonging to this stock would occur in the WCPRA). With the exception of the humpback whale and the aforementioned Palmyra Atoll stock of false killer whale, animals of any species occurring in the MARA or areas of the WCPRA outside of the Hawaiian EEZ and American Samoa EEZ would not be part of any NMFS-designated stock. Aside from the four species listed above, animals of any species occurring in the American Samoa EEZ would not be part of any NMFS-designated stock. As a reminder, the HARA, MARA, and ASARA are considered to include waters of the contiguous zone around these archipelagoes (i.e., 0–24 nmi from land), while the WCPRA is considered to include all remaining EEZ waters around those archipelagoes as well as the high seas and waters around U.S. possessions of the Pacific Remote Islands Area.

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. Abundance estimates and related information, PBR values, and annual M/SI values given in table 2 are specific to the stocks for which they are listed. This information is generally not available for these species occurring in areas outside the ranges of NMFS-designated stocks. NMFS-designated stocks in the Hawai'i region include animals found both within the Hawaiian Islands EEZ and in adjacent high seas waters; however, because data on abundance, distribution, and human-caused impacts are largely lacking for high seas waters, the status of these stocks are generally evaluated based on data from the U.S. EEZ waters of the Hawaiian Islands (including the Main Hawaiian Islands and Northwestern Hawaiian Islands). For certain species, existing data support the existence of demographically distinct resident populations associated with different regions within the Hawaiian Islands, and separate stocks are designated accordingly. NMFS-designated stocks for American Samoa include animals occurring within EEZ waters around American Samoa. All managed stocks in the specified geographical regions are assessed in either NMFS's U.S. Pacific SARs or U.S. Alaska SARs. All values presented in table 2 are the most recent available at the time of publication, including from the draft 2023 SARs (available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports>).

A detailed description of the species likely to be affected by the PIFSC's activities, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, were provided in the PIFSC's LOA application and summarized in the notice of proposed rulemaking for this action (86 FR 15298, March 22, 2021); since that time, we are not aware of any changes (except changes to the humpback whale stock designation as described below) in the status of these species or stocks; therefore, detailed descriptions are not provided here.

TABLE 2—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF PIFSC RESEARCH ACTIVITIES

Common name	Scientific name	Stock ¹	Occurrence ²				ESA/ MMPA status; strategic (Y/N) ³	Stock abundance (CV, N _{min} , most recent abundance survey) ⁴	PBR	Annual M/SI ⁵
			H A R A	M A R A	A S A R A	W C P R A				
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)										
Family Balaenopteridae (rorquals):										
Humpback whale	<i>Megaptera novaeangliae kuzira.</i>	American Samoa ... Hawaii	X	X	X	X	-; N -; N	unk (n/a; 150; 2008) 11,278 (0.56; 7,265; 2020).	0.4 127	0 27.1
		Western North Pa- cific. Hawai'i					E/D; Y	1,084 (0.09; 1,007; 2006).	3.4	5.8
Minke whale	<i>Balaenoptera acutorostrata scammoni.</i>	Hawai'i	X	X	X	X	-; N	438 (1.05; 212; 2017).	2.1	0
Bryde's whale	<i>B. edeni brydei</i>	Hawai'i	X	X	X	X	-; N	791 (0.29; 623; 2020).	6.2	0
Sei whale	<i>B. borealis borealis</i>	Hawai'i	X	X	.....	X	E/D; Y	391 (0.9; 204; 2010).	0.4	0.2
Fin whale	<i>B. physalus physalus</i> ..	Hawai'i	X	X	.....	X	E/D; Y	203 (0.99; 101; 2017).	0.2	0
Blue whale	<i>B. musculus musculus</i>	CNP	X	X	.....	X	E/D; Y	133 (1.09; 63; 2010)	0.1	0
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)										
Family Physeteridae:										
Sperm whale	<i>Physeter macrocephalus.</i>	Hawai'i	X	X	X	X	E/D; Y	5,707 (0.23; 4,486; 2017).	18	0
Family Kogiidae:										
Pygmy sperm whale	<i>Kogia breviceps</i>	Hawa'i	X	X	.....	X	-; N	42,083 (0.64, 25,695, 2017).	257	0
Dwarf sperm whale	<i>K. sima</i>	Hawai'i ⁶	X	X	X	X	-; N	unk	undet	0
Family Ziphiidae (beaked whales):										
Cuvier's beaked whale	<i>Ziphius cavirostris</i>	Hawai'i Pelagic	X	X	X	X	-; N	4,431 (0.41; 3,180; 2017).	32	0
Longman's beaked whale	<i>Indopacetus pacificus</i> ..	Hawai'i	X	.....	.....	X	-; N	2,550 (0.67; 1,527; 2017).	15	0
Blainville's beaked whale	<i>Mesoplodon densirostris.</i>	Hawai'i	X	X	.....	X	-; N	1,132 (0.99; 564; 2017).	5.6	0
Deraniyagala's beaked whale	<i>M. hotaula</i>	n/a .....	.....	.....	.....	X	-; N	unk	undet	unk
Family Delphinidae:										
Rough-toothed dolphin	<i>Steno bredanensis</i>	Hawai'i	X	X	X	X	-; N	83,915 (0.49; 56,782; 2017).	511	3.2
Common bottlenose dolphin ..	<i>Tursiops truncatus truncatus.</i>	American Samoa ⁶ Hawai'i Pelagic	X	X	X	X	-; N -; N	unk	undet	unk
		Kauai and Ni'i'hau ... Oahu					-; N -; N	112 (0.24; 92; 2018) 112 (0.17; 97; 2017)	0.9 1.0	unk unk
		Maui Nui					-; N	64 (0.15; 56; 2018)	0.6	unk
		Hawai'i Island					-; N	136 (0.43; 96; 2018)	1.0	≥0.2
Pantropical spotted dolphin ...	<i>Stenella attenuata attenuata.</i>	Hawai'i Pelagic	X	X	X	X	-; N	67,313 (0.27; 53,839; 2020).	538	0
		Oahu					-; N	unk	undet	unk
		Maui Nui					-; N	unk	undet	unk
		Hawai'i Island					-; N	unk	undet	≥0.2
Spinner dolphin	<i>S. longirostris longirostris.</i>	Hawai'i Pelagic ⁶	X	X	X	X	-; N	unk	undet	0
		Kauai and Ni'i'hau ⁶ Oahu/4—Island Re- gion ⁶ .					-; N -; N	601 (0.2; unk; 2005) 355 (0.09; unk; 2007).	undet undet	unk ≥0.4
		Hawai'i Island					-; N	665 (0.09; 617; 2012).	6.2	≥1.0
		Kure and Midway Atoll ⁶ .					-; N	260 (n/a; 139; 2010)	undet	unk
		Pearl and Hermes Reef ⁶ .					-; N	unk	undet	unk
		American Samoa ⁶					-; N	unk	undet	unk
Striped dolphin	<i>S. coeruleoalba</i>	Hawai'i Pelagic	X	X	.....	X	-; N	64,343 (0.28; 51,055; 2020).	511	0
Fraser's dolphin	<i>Lagenodelphis hosei</i> ...	Hawai'i	X	X	.....	X	-; N	40,960 (0.70; 24,068; 2017).	241	0
Risso's dolphin	<i>Grampus griseus</i>	Hawai'i	X	X	.....	X	-; N	6,979 (0.29; 5,283; 2020).	53	0
Melon-headed whale	<i>Peponocephala electra</i>	Hawaiian Islands	X	X	.....	X	-; N	40,647 (0.74; 23,301; 2017).	233	0
		Kohala Resident					-; N	447 (0.12; unk; 2017).	undet	0
Pygmy killer whale	<i>Feresa attenuata</i>	Hawai'i	X	X	.....	X	-; N	10,328 (0.75; 5,885; 2017).	59	0

TABLE 2—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF PIFSC RESEARCH ACTIVITIES—Continued

Common name	Scientific name	Stock ¹	Occurrence ²				ESA/ MMPA status; strategic (Y/N) ³	Stock abundance (CV, N _{min} , most recent abundance survey) ⁴	PBR	Annual M/SI ⁵
			H A R A	M A R A	A S A R A	W C P R A				
False killer whale	<i>Pseudorca crassidens</i>	Northwestern Hawaiian Islands.	X	X	X	X	-; N	477 (1.71; 178; 2017).	1.43	0.16
		Hawai'i Pelagic					-; N	5,528 (0.35; 4,152; 2017).	33	47
		Main Hawaiian Islands Insular.					E/D; Y	138 (0.08; 129; 2015).	0.26	0.03
		American Samoa ...					-; N	unk	undet	unk
		Palmyra Atoll					-; N	1,329 (0.65; 806; 2005).	6.4	0.3
Killer whale	<i>Orcinus orca</i>	Hawai'i	X	X	X	X	-; N	161 (1.06; 78; 2017)	0.8	0
Short-finned pilot whale	<i>Globicephala macrorhynchus</i> .	Hawai'i	X	X	X	X	-; N	19,242 (0.23; 15,894; 2020).	159	0.2
Order Carnivora—Superfamily Pinnipedia										
Family Phocidae (earless seals):										
Hawaiian monk seal	<i>Neomonachus schauinslandi</i> .	Hawai'i	X	.....	.....	X	E/D; Y	1,564 (0.05; 1,444; 2021).	5.1	5.4

¹ All species with potential for take by PIFSC are presented in table 2. All known stocks are presented here but marine mammals in the MARA, ASARA, and WCPRA are generally not assigned to designated stocks.

² HARA: Hawaiian Archipelago Research Area; MARA: Mariana Archipelago Research Area; ASARA: American Samoa Archipelago Research Area; WCPRA: Western and Central Pacific Research Area.

³ Endangered Species Act (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.

⁴ CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

⁵ 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, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value.

⁶ Abundance estimates for these stocks are not considered current. PBR is therefore considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates, as these represent the best available information for use in this document.

Humpback Whale

On September 8, 2016, NMFS divided the once single humpback whale species into 14 distinct population segments (DPS) under the ESA, removed the species-level listing as endangered, and, in its place, listed 4 DPSs as endangered and 1 DPS as threatened (81 FR 62259, September 8, 2016). The remaining nine DPSs were not listed. There are four DPSs in the North Pacific, including Western North Pacific, which is listed as endangered, and Hawaii, which is not listed.

The 2022 Alaska and Pacific SARs described a revised stock structure for humpback whales which modifies the previous stocks designated under the MMPA to align more closely with the ESA-designated DPSs (Caretta *et al.*, 2023; Young *et al.*, 2023). Specifically, the three previous North Pacific humpback whale stocks (central and western North Pacific stocks and a CA/OR/WA stock) were replaced by five stocks, largely corresponding with the ESA-designated DPSs. These include Western North Pacific and Hawaii stocks, which correspond with the DPSs of the same names, and which (along with the American Samoa stock) are the only stocks potentially affected by PIFSC activities.

The Hawai'i stock consists of one demographically independent population (DIP) (Hawaii—southeast Alaska/northern British Columbia DIP) and one unit (Hawaii—north Pacific unit), which may or may not be composed of multiple DIPs (Wade *et al.*, 2021). The DIP and unit are managed as a single stock at this time, due to the lack of data available to separately assess them and lack of compelling conservation benefit to managing them separately (NMFS, 2023; NMFS, 2019; NMFS, 2022b). The DIP is delineated based on two strong lines of evidence: genetics and movement data (Wade *et al.*, 2021). Whales in the Hawaii—southeast Alaska/northern British Columbia DIP winter off Hawaii and largely summer in southeast Alaska and northern British Columbia (Wade *et al.*, 2021). The group of whales that migrate from Russia, western Alaska (Bering Sea and Aleutian Islands), and central Alaska (Gulf of Alaska excluding southeast Alaska) to Hawaii have been delineated as the Hawaii—North Pacific unit (Wade *et al.*, 2021). There are a small number of whales that migrate between Hawaii and southern British Columbia/Washington, but current data and analyses do not provide a clear understanding of which unit these

whales belong to (Wade *et al.*, 2021; Caretta *et al.*, 2023; Young *et al.*, 2023).

The Western North Pacific (WNP) stock consists of two units, the Philippines/Okinawa—North Pacific unit and the Marianas/Ogasawara—North Pacific unit. The units are managed as a single stock at this time, due to a lack of data available to separately assess them (NMFS 2023a, NMFS 2019, NMFS 2022d). Recognition of these units is based on movements and genetic data (Oleson *et al.*, 2022). Whales in the Philippines/Okinawa—North Pacific unit winter near the Philippines and in the Ryukyu Archipelago and migrate to summer feeding areas primarily off the Russian mainland (Oleson *et al.*, 2022). Whales that winter off the Mariana Archipelago, Ogasawara, and other areas not yet identified and then migrate to summer feeding areas off the Commander Islands, and to the Bering Sea and Aleutian Islands comprise the Marianas/Ogasawara—North Pacific unit.

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 ~65 decibel (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, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	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; Southall *et al.* 2019. Additionally, animals are able to detect very loud sounds above and below that "generalized" hearing range.

For more detail concerning these groups and associated frequency ranges, please see NMFS (2024) for a review of available information.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

Detailed descriptions of the potential effects of the various elements of the PIFSC's specified activity on marine mammals and their habitat were provided in the proposed rule (86 FR 15298, March 22, 2021) as well as the 2023 Programmatic Environmental Assessment (PEA). Additionally, detailed descriptions of the potential effects of similar specified activities have also been provided in other Federal Register notices of proposed rulemaking (e.g., 81 FR 38516, June 13, 2016; 83 FR 37638; August 1, 2018; 84 FR 6576, February 27, 2019), and section 7 of the PIFSC's LOA application provides a discussion of the potential effects of their specified activity, which we have reviewed for accuracy and completeness. No significant new information is available, and these discussions provide the necessary, adequate and relevant information regarding the potential effects of the PIFSC's specified activities on marine mammals and their habitat. Therefore, we refer the reader to these documents rather than repeating the information here. The referenced information includes a summary and discussion of the ways that components of the specified activity (e.g., gear deployment, use of active acoustic

sources, visual disturbance) may impact marine mammals and their habitat.

As stated previously, the use of certain research gears, including trawl nets, gillnets, longline gear, and fyke nets, has the potential to result in interaction with marine mammals. In the event of a marine mammal interaction with research gear, injury, serious injury, or mortality may result from entanglement or hooking. Exposure to sound through the use of active acoustic systems for research purposes may result in Level B harassment. However, as detailed in the previously referenced discussions, Level A harassment in the form of permanent threshold shift (PTS) is extremely unlikely to occur, and we consider such effects discountable. Finally, it is expected that hauled out pinnipeds may be disturbed by approaching researchers such that Level B harassment could occur. Ship strike is not a reasonably anticipated outcome of PIFSC research activities, given the small amount of distance covered by research vessels, use of observers, and their relatively slow speed in comparison to commercial shipping traffic (*i.e.*, the primary cause of marine mammal vessel strikes).

With specific reference to Level B harassment that may occur as a result of acoustic exposure, we note that the analytical methods described in the incidental take regulations for other NMFS Science Centers are retained here. However, the state of science with regard to our understanding of the likely potential effects of the use of systems like those used by PIFSC has advanced

in recent years, as have readily available approaches to estimating the acoustic footprints of such sources, with the result that we view this analysis as highly conservative. Although more recent literature provides documentation of marine mammal responses to the use of these and similar acoustic systems (e.g., Cholewiak *et al.*, 2017; Quick *et al.*, 2017; Varghese *et al.*, 2020), the described responses do not generally comport with the degree of severity that should be associated with Level B harassment, as defined by the MMPA. We retain the analytical approach described in the incidental take regulations for other NMFS Science Centers for consistency with existing analyses and for purposes of efficiency here, and consider this acceptable because the approach provides a conservative estimate of potential incidents of Level B harassment (see Estimated Take section of this final rule). In summary, while we authorize the amount of take by Level B harassment indicated in the Estimated Take section, and consider these potential takings at face value in our negligible impact analysis, it is uncertain whether use of these acoustic systems are likely to cause take at all, much less at the estimated levels.

The Estimated Take 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 potential effects of the specified activity, the Estimated Take section, and the Mitigation section, to draw conclusions

regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Estimated Take

This section provides an estimate of the number of incidental takes to be authorized through an LOA, which will inform both NMFS' determination of whether the number of takes are "small" and the negligible impact determination.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Take of marine mammals incidental to PIFSC research activities could occur as a result of (1) injury or mortality due to gear interaction (Level A harassment, serious injury, or mortality); (2) behavioral disturbance resulting from the use of active acoustic sources (Level B harassment only); or (3) behavioral disturbance of pinnipeds resulting from incidental approach of researchers and research vessels (Level B harassment only). Below, we describe how the potential take is estimated.

Estimated Take Due to Gear Interaction

The use of historical interactions as a basis to estimate future take of marine mammals in fisheries research gear has been utilized in the LOA applications and rules of other NMFS Fisheries Science Centers (e.g., Southwest (SWFSC), Northwest (NWFSC)). However, because PIFSC has no history of marine mammal take in any of the gear used during its fisheries and ecosystem research, additional factors must be considered. Instead, NMFS

used information from commercial fisheries, other NMFS Fisheries Science Centers operations, and published take as described below.

NMFS believes it is appropriate to include estimates for future incidental takes of a number of species that have not been taken by PIFSC historically, but inhabit the same areas and show similar types of behaviors and vulnerabilities to gear used by other NMFS Fisheries Science Centers and used in commercial fisheries (based on the 2024 List of Fisheries (LOF), see <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries>). A number of factors were taken into account to determine whether a species may have a similar vulnerability to certain types of gear as species taken in commercial gear and research gear elsewhere (e.g., distribution, density, abundance, behavior, feeding ecology, travel in groups, and common association with other species historically taken in commercial gear or other Fisheries Science Centers). While such take could potentially occur, NMFS believes that any occurrences would likely be rare given that no such take in PIFSC research has occurred (despite many years of the same or similar surveys occurring). Moreover, marine mammal behavioral and ecological characteristics reduce the risk of incidental take from research gear, and the required mitigation measures reduce the risk of incidental take.

As background to the process of determining which species not historically taken may have sufficient vulnerability to capture in PIFSC gear to justify inclusion in these regulations, we note that the PIFSC is NMFS's research arm in the central and western Pacific Ocean and may be considered as a leading source of expert knowledge regarding marine mammals (e.g., behavior, abundance, density) in the areas where they operate. The species for which the take request was formulated were selected by the PIFSC, and we have concurred with these decisions.

While PIFSC has not historically taken marine mammal species in its longline gear, it is well documented that some species potentially encountered during PIFSC surveys are taken in commercial longline fisheries. In order to evaluate the potential vulnerability of species to trawl and longline fishing gear and entanglement from instrument deployment and traps, we first consulted the LOF. The LOF classifies U.S. commercial fisheries into one of three categories according to the level of incidental marine mammal M/SI that occurs on an annual basis over the most recent 5-year period (generally) for which data has been analyzed: Category I, frequent incidental M/SI; Category II, occasional incidental M/SI; and Category III, remote likelihood of or no known incidental M/SI. We provide summary information, as presented in the 2024 LOF (89 FR 12257, February 16, 2024), in table 4. In order to simplify information presented, and to encompass information related to other similar species from different locations, we group marine mammals by genus (where there is more than one member of the genus found in U.S. waters). Where there are documented incidents of M/SI incidental to relevant commercial fisheries, we note whether we believe those incidents provide sufficient basis upon which to infer vulnerability to capture in PIFSC research gear. For a listing of all Category I, II, and III fisheries using relevant gears, associated estimates of fishery participants, and specific locations and fisheries associated with the historical fisheries takes indicated in table 4 below, please see the 2024 LOF. For specific numbers of marine mammal takes associated with these fisheries, please see the relevant SARs. More information is available online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries> and <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 4—U.S. COMMERCIAL FISHERIES INTERACTIONS FOR TRAWL AND LONGLINE GEAR FOR RELEVANT SPECIES

Species ¹	Trawl ²	Vulnerability inferred? ³	Longline ²	Vulnerability inferred ³
Bottlenose dolphin	N	Y	Y	Y
False killer whale	N	N	Y	Y
Humpback whale	N	N	Y	Y
<i>Kogia</i> spp	N	N	Y	Y
Pygmy killer whale	N	N	Y	Y
Risso's dolphin	N	N	Y	Y
Rough-toothed dolphin	N	Y	Y	Y
Short-finned pilot whale	N	N	Y	Y

TABLE 4—U.S. COMMERCIAL FISHERIES INTERACTIONS FOR TRAWL AND LONGLINE GEAR FOR RELEVANT SPECIES—Continued

Species ¹	Trawl ²	Vulnerability inferred? ³	Longline ²	Vulnerability inferred ³
Sperm whale	N	N	Y	Y
Striped dolphin	N	Y	Y	Y
Cuvier's beaked whale	N	N	Y	Y
Blainville's beaked whale	N	N	Y	Y
Pantropical spotted dolphin	N	Y	N	Y
Spinner dolphin	N	Y	N	Y

¹ Please refer to table 2 for taxonomic reference.

² Indicates whether any member of the species has documented incidental M/SI in a U.S. fishery using that gear in the most recent 5-year timespan for which data is available.

³ Indicates whether NMFS has inferred that a species not historically taken by PIFSC has the potential to be taken in the future based on records of marine mammals taken by U.S. commercial fisheries. Y = yes, N = no.

Information related to incidental M/SI in relevant commercial fisheries is not, however, the sole determinant of appropriateness for authorizing take incidental to PIFSC survey operations. Numerous factors (*e.g.*, species-specific knowledge regarding animal behavior, overall abundance in the geographic region, density relative to PIFSC survey effort, feeding ecology, propensity to travel in groups commonly associated with other species historically taken) were considered by the PIFSC to determine whether a species not previously taken by PIFSC may be taken during future research activities. In some cases, NMFS have determined that species without documented M/SI may nevertheless be vulnerable to capture in PIFSC research gear. Those species with no records of historical interaction with PIFSC research gear and no documented M/SI in relevant commercial fisheries, and for which the PIFSC has not requested the authorization of incidental take, are not considered further in this section. The PIFSC believes generally that any sex or age class of those species for which take authorization is requested could be taken.

To estimate the potential number of takes by M/SI from PIFSC research gear, we first determine which species may have vulnerability to capture by gear type. Of those species, we then determine whether any may have similar propensity to be taken by a given gear as a historically-taken species in U.S. commercial fisheries (inferred vulnerability). For these species, we assume it is possible that take could occur while at the same time contending that, absent significant range shifts or changes in habitat usage, capture of a species not historically taken by PIFSC research activities would likely be a very rare event. Therefore, we assume that take by PIFSC would be a rare event such that authorization of a single take over the 5-year period, for each region

where the gear is used and the species is present, is likely sufficient given the low risk of marine mammals interacting with PIFSC gear.

Longline—While longline research would only be conducted outside of the longline exclusion areas (see <https://www.fisheries.noaa.gov/national/marine-mammal-protection/false-killer-whale-take-reduction>), several species of small cetaceans were deemed to have a similar vulnerability to longline gear as some historically-taken species by other NMFS Fisheries Science Centers or by commercial fisheries using factors outlined above. The commercial fisheries, HI deep-set longline (Category I) and the HI shallow-set longline and American Samoa longline (both Category II) fisheries, report taking marine mammals. The longline fisheries the LOF identifies having taken marine mammals on the High Seas are the Western Pacific Pelagic (HI Deep-set component, Category I) and Western Pacific Pelagic (HI Shallow-set component, Category II).

PIFSC assumes any take of marine mammals in longline fisheries research activities will be a rare occurrence. As stated above, NMFS expects that take of marine mammals by M/SI by PIFSC would be a rare event such that no more than a single take of each species/stock by M/SI over the 5-year period, is reasonably likely to occur. Therefore, PIFSC requested, and NMFS is authorizing, one take in longline gear over the 5-year authorization period throughout the PIFSC research area for each of the following species: bottlenose dolphin (Hawai'i pelagic stock), Blainville's beaked whale (Hawai'i pelagic stock), Cuvier's beaked whale (Hawai'i pelagic stock), *Kogia* spp. (Hawai'i stocks), false killer whale (Hawai'i pelagic stock), Pantropical spotted dolphin (all stocks), pygmy killer whale (Hawai'i stock), rough toothed dolphin (Hawai'i stock), Risso's dolphin (Hawai'i stock), short-finned

pilot whale (Hawai'i stock), and striped dolphin (Hawai'i stock) (table 5). While the LOF includes commercial fishery takes of false killer whales and rough-toothed dolphins from the respective American Samoa stocks, PIFSC has not requested, and NMFS has not authorized, take by M/SI of these species/stocks because PIFSC does not anticipate conducting longline research anywhere within the range of these species/stocks throughout the time period addressed by this application (*e.g.*, longline surveys in the WCPRA would occur within 500 nmi of the HARA, which is at least 1600 nmi from the ASARA and outside of the range of the American Samoa stocks of false killer whales and rough-toothed dolphins). Additionally, the LOF includes commercial fishery takes of the MHI insular stock of false killer whales, but PIFSC will not be conducting longline research within the stock's range; therefore, the PIFSC has not requested, and NMFS has not authorized, M/SI takes of this stock. Spinner dolphins have not been reported taken in Hawai'i based longline fisheries in the LOF. The PIFSC therefore has not requested, and NMFS has not authorized, any take of this species in analogous fisheries research gear.

While PIFSC has not historically taken large whales in its longline gear, these species are taken in commercial longline fisheries. There are two large whale species that have been taken by commercial longline fisheries and for which PIFSC has requested a single take each over the 5-year authorization period in longline gear: the humpback whale and the sperm whale. Sperm whales are listed as endangered under the ESA and thus by definition, depleted under the MMPA. Although large whale species could become entangled in longline gear, the probability of interaction with PIFSC longline gear is extremely low

considering a much lower level of survey effort and shorter duration sets relative to that of commercial fisheries. For example, in 2014 approximately 47.1 million hooks were deployed in commercial longline fishing in the PIFSC research areas (see <https://www.fisheries.noaa.gov/resource/data/hawaii-longline-fishery-logbook-summary-reports>); in contrast PIFSC plans to deploy up to 73,500 hooks/year or 0.0015 percent of the effort in these commercial fisheries. The mitigation measures taken by PIFSC are also expected to reduce the likelihood of taking large whales (see Mitigation section). Although there is only a limited potential for take, PIFSC has requested, and NMFS is authorizing, one take of humpback whale (Hawai'i stock) in longline gear and one take of a sperm whale (Hawai'i stock) by M/SI based on analogy with commercial fisheries over the 5-year authorization period of this application.

Trawl—Although PIFSC has never taken small delphinids in a pelagic midwater trawl such as an Isaacs-Kidd or Cobb trawl, and no commercial trawl fisheries in PIFSC research areas have reported takes, there is a remote possibility such a take could occur. This research targets very small pelagic species (e.g., micronekton, pelagic larvae) not likely to attract foraging small delphinids. Thus incidental catch of a small delphinid is unlikely in either technique but even less so for the Isaacs-Kidd trawl due to the very small opening (about 3 m x 3 m) whereas the mouth of the PIFSC Cobb trawls are about 10 m x 10 m. However, to address a rare situation or event, PIFSC requested, and NMFS is authorizing, one take each of the following small delphinids in trawl gear over the 5-year period of this rule: bottlenose dolphin (all stocks), rough-toothed dolphin (Hawai'i stock), spinner dolphin (all stocks), pantropical spotted dolphin (all stocks), and striped dolphin (Hawai'i stock).

Instrument and Trap Deployments—Humpback whales inhabit shallow waters, typically within the 100-fathom isobaths in the HARA (Baird *et al.*, 2000). PIFSC conducts a variety of instrument deployments and insular fish abundance surveys between 50 m and 600 m and bottomfish EFH surveys between 100–400 m (see table 1.1 in PIFSC's application) using gear similar to that used in a variety of commercial fisheries. Thus such research gear has the potential for entangling humpback whales surfacing from dives. Such instruments include aMOUSS, BotCam, baited remote underwater video systems (BRUVS) deployed from a vessel and

connected to the surface with a line to a float or vessel; environmental sampling instruments deployed by line; and baited or unbaited bottom traps such as lobster traps and fish traps deployed from a vessel and connected to the surface with line to a float.

Therefore PIFSC requested, and NMFS is authorizing, one take of humpback whale (Hawai'i stock) in gear associated with deployed instruments and traps. In addition, based on a similarity in behavior, several species of "curious" small delphinids have the potential for becoming entangled in gear associated with instrument deployments. PIFSC has established mitigation measures already in place to reduce potential interactions (e.g., no deployment when marine mammals are known to be in the immediate area). Because there is a remote chance such entanglement may occur when an animal investigates such gear, PIFSC requested, and NMFS is authorizing, one take each over the 5-year authorization period of each of the following small delphinid species: bottlenose dolphin (all stocks), rough-toothed dolphin (Hawai'i stock), spinner dolphin (all stocks), and pantropical spotted dolphin (all stocks) in "instrument deployment" gears.

Other gear—PIFSC considered the risk of interaction with marine mammals for all the research gear and instruments it uses, but PIFSC did not request, and NMFS has not authorized, incidental takes for research gear other than midwater trawls, longline, instrument deployments, and traps. PIFSC acknowledges that by having hooks, nets, lines, or vessels in the water there is a potential for incidental take of marine mammals during research activities. However, many of the fisheries and ecosystem research activities conducted by PIFSC involve gear or instruments that are not expected to cause mortality, serious injury, or Level A harassment. These include gear and instruments that are operated by hand or close enough to the vessel that they can be continuously observed and controlled such as dip nets, scoop nets, handheld gear and instruments used by SCUBA divers or free divers (cameras, transect lines, and spears), environmental data collectors deployed or attached by hand to the reef, marine debris removal tools (knives and float bags), and small surface net trawls adjacent to the vessel. Other gear or instruments that are used so infrequently, operate so slowly, or carried out with appropriate mitigation measures so as not to present a reasonable risk of interactions with marine mammals include: autonomous

vehicles such as gliders, autonomous underwater vehicles (AUVs), unmanned aerial vehicles (UAVs), unmanned aircraft systems (UASs), and towed optical assessment devices (TOADs); submersibles; towed-divers; troll fishing; larval settlement traps temporarily installed on the reef; expendable bathythermographs (XBTs); and environmental data collectors temporarily deployed from a vessel to the seafloor and then retrieved remotely such as high-frequency recording packages (HARPs) and ecological acoustic readers (EARs). Please refer to table 1.1 and appendix A in PIFSC's application for a list of the research projects that use this gear and descriptions of their use.

The gear and instruments listed above are not considered to have a reasonable potential to take marine mammals given their physical characteristics, how they are fished, and the environments where they are used. There have been no marine mammal mortalities, serious injuries, or takes by Level A harassment associated with any of these gear types. Because of this, NMFS does not expect these activities to result in take of marine mammals in the PIFSC research areas, and has not authorized marine mammal take for these gears or instruments.

Bottomfishing—There is evidence that cetaceans and Hawaiian monk seals occasionally pursue fish caught on various hook-and-line gear (depredation of fishing lines) deployed in commercial and non-commercial fisheries across Hawai'i (Nitta and Henderson, 1993; Kobayashi and Kawamoto, 1994). This depredation behavior, which is documented as catch loss from the hook-and-line gear, may be beneficial to the marine mammal in providing prey but it also opens the possibility for the marine mammal to be hooked or entangled in the gear. PIFSC gave careful consideration to the potential for including incidental take requests for marine mammals in bottom handline (bottomfishing) gear because of the planned increase in research effort using that gear in the Insular Fish Abundance Estimation Comparison Survey (from approximately 700 sets per year to over 7000 sets per year). PIFSC has not had any interactions in the past with marine mammals while conducting research with bottomfishing gear in the MHI.

Bottlenose dolphins have been identified as the primary species associated with depredation of catch in the bottomfish fishery and they appear to be adept at pulling hooked fish from the gear without breaking the line or taking hooks off the line (Kobayashi and Kawamoto, 1994). It is not known if

these interactions result in injury, serious injury, or mortality of bottlenose dolphins or other cetaceans (Caretta *et al.*, 2015). No mortality or serious injuries of monk seals have been attributed to the MHI bottomfish handline fishery (Caretta *et al.*, 2019). In 2016, 11 seal hookings were documented and all were classified as non-serious injuries, although 6 of these would have been deemed serious had they not been mitigated (Henderson, 2017; Mercer, 2018). The hook-and-line rigging used to target ulua (jacks, *Caranx* spp.) are typical of shoreline fisheries that are distinct from the bottomfishing gear and methods used by PIFSC during its fisheries and ecosystem research. Although there are some similarities between the shoreline fishery and the bottomfishing gear used by PIFSC (e.g., circle hooks), the general size and the way the hooks are rigged (e.g., baits, leaders, weights, tackle) are typically different and probably present

different risks of incidental hooking to monk seals. Ulua hooks are generally much larger circle hooks than PIFSC uses because the targeted ulua are usually greater than 50 pounds (23 kilograms) in weight. Shoreline fisheries (deployed from shore with rod and reel) also typically use “slide bait” or “slide rigs” that allow the use of live bait (small fish or octopus) hooked in the middle of the bait. If a monk seal pursued this live bait and targeted the center of the bait or swallowed it whole, it could get hooked in the mouth. PIFSC research with bottomfishing gear uses pieces of fish for bait that attract bottomfish but not monk seals. Monk seals could be attracted to a caught bottomfish but, given the length of the target bottomfish, it is unlikely that a monk seal would be physically capable of swallowing the whole fish and thus swallowing the hook. The risk of monk seals getting hooked on bottomfishing gear used in PIFSC research is therefore

less than the risk of getting hooked on shoreline hook-and-line gears which are identified in Caretta *et al.* (2019).

PIFSC has no records of marine mammals interacting with bottomfishing research gear and given the mitigation measures the PIFSC would be required to implement for bottomfishing research to prevent marine mammals from interacting with bottomfishing activities (e.g., avoiding fishing when monk seals are present; see Mitigation below), NMFS has determined that PIFSC use of research bottomfishing gear is unlikely to result in incidental take of marine mammals. These regulations require PIFSC to document potential depredation of its bottomfish research gear (catch loss) in the future, and increase monitoring efforts when catch loss becomes apparent, in an effort to better understand the potential risks of hooking to monk seals and other marine mammals.

TABLE 5—TOTAL ESTIMATED TAKE DUE TO GEAR INTERACTION, 2025–30^a

Common name (stock)	Authorized M/SI Level A take (all areas combined)							
	Midwater trawl		Hook-and-line		Instrument deployments and traps		Sum all gear (trawl, hook-and-line, and instruments and traps) annual request	Sum all gears 5-year authorization
	Calculated average take per year	Total takes over 5-year period	Calculated average take per year	Total takes over 5-year period	Calculated average take per year	Total takes over 5-year period		
Blainville's beaked whale (Hawai'i stock)			0.2	1			0.2	1
Cuvier's Beaked whale (Hawai'i pelagic stock)			0.2	1			0.2	1
Bottlenose dolphin (Hawai'i pelagic stock)	0.2	1	0.2	1	0.2	1	0.6	3
Bottlenose dolphin (All stocks, except above)	0.2	1			0.2	1	0.4	2
False killer whale (Hawai'i pelagic or unspecified ^b)			0.2	^c 1			0.2	1
Humpback whale (Hawai'i stock)			0.2	1	0.2	1	0.4	2
<i>Kogia</i> spp. (Hawai'i stocks)			0.2	1			0.2	1
Pantropical spotted dolphin (all stocks)	0.2	1	0.2	1	0.2	1	0.6	3
Pygmy killer whale (Hawai'i stock) ..			0.2	1			0.2	1
Risso's dolphin (Hawai'i stock)			0.2	1			0.2	1
Rough-toothed dolphin (Hawai'i stock)	0.2	1	0.2	1	0.2	1	0.6	3
Rough-toothed dolphin (all stocks except above)			0.2	1	0.2	1	0.4	2
Short-finned pilot whale (Hawai'i stock)			0.2	1			0.2	1
Sperm whale (Hawai'i stock)			0.2	1			0.2	1
Spinner dolphin (all stocks)	0.2	1			0.2	1	0.4	2
Striped dolphin (all stocks)	0.2	1	0.2	1			0.4	2

^aPlease see table 5 and preceding text for explanation of take estimates. Numbers of authorized takes are informed by area- and gear-specific vulnerability. Because we have no specific information to indicate whether any given future interaction might result in M/SI versus Level A harassment, we conservatively assume that all interactions equate to mortality for these fishing gear interactions.

^bHawai'i pelagic stock is designated as strategic. “Unspecified stock” occurs on the high seas.

^cLongline research would only occur outside of FKW exclusion zone; potential take not in HARA, only within WCPRA.

Estimated Take Due to Acoustic Harassment

As described previously, we believe it is unlikely that PIFSC use of active acoustic sources is realistically likely to cause Level B harassment of marine mammals. However, per PISFC request, we conservatively assume that, at worst,

Level B harassment may result from exposure to noise from these sources, and we carry forward the analytical approach developed in support of all NMFS Science Center incidental take regulations. In order to attempt to quantify the potential for Level B harassment to occur, NMFS (including

the PIFSC and acoustics experts from other parts of NMFS) developed an analytical framework considering characteristics of the active acoustic systems, their expected patterns of use, and characteristics of the marine mammal species that may interact with them. The framework incorporated a

number of deliberately precautionary, simplifying assumptions, and the resulting exposure estimates, which are presumed here to equate to take by Level B harassment (as defined by the MMPA), may be seen as an overestimate of the potential for such effects to occur as a result of the operation of these systems.

Authorized takes from the use of active acoustic scientific sonar sources (e.g., echosounders) are by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to the use of active acoustic sources. Regarding the potential for Level A harassment in the form of permanent threshold shift to occur, the very short duration sounds emitted by these sources reduces the likely level of accumulated energy an animal is exposed to. An individual would have to remain exceptionally close to a sound source for unrealistic lengths of time, suggesting the likelihood of injury occurring is exceedingly small. Potential Level A harassment is therefore not considered further in this analysis.

Generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (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 basic factors can contribute to a basic calculation to provide an initial prediction of 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 take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds 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 PTS of some degree (equated to Level A harassment). As described in detail for PIFSC and other science centers in previously issued **Federal Register** publications (e.g., 85 FR 53606, August 28, 2020; 88 FR 27028, May 6, 2020), the use of the sources used by NMFS Science Centers,

including PIFSC, do not have the potential to cause Level A harassment; therefore, our discussion is limited to behavioral harassment (Level B harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received sound level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (e.g., frequency, predictability, duty cycle), the environment (e.g., bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.*, 2007; Ellison *et al.*, 2011). Based on the best available science and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 microPascal (μ Pa) root mean square (rms) for continuous (e.g., vibratory pile-driving, drilling) and above 160 dB re 1 μ Pa (rms) for intermittent (e.g., scientific sonar, seismic airgun) sources.

The operating frequencies of active acoustic systems used by the PIFSC range from 30–200 kHz (see table 2 in the **Federal Register** notice of proposed rulemaking (86 FR 15298, March 22, 2021)). These frequencies are within the very upper hearing range limits of baleen whales (7 Hz to 35 kHz). The Simrad EM300 operates at a frequency of 30 kHz and the Simrad EK60 operates at 30–200 kHz. Baleen whales may be able to detect sound from the Simrad EM300 and the Simrad EK60 when it operates at the lower frequency. However, the beam pattern is extremely narrow (1 degree) at that frequency. The Acoustic Doppler Current Profiler (ADCP) Ocean Surveyor operates at 75 kHz, which is outside of baleen whale hearing capabilities. Therefore, we would not expect any exposures to these signals to result in behavioral harassment in baleen whales.

The assessment paradigm for active acoustic sources used in PIFSC fisheries research is relatively straightforward and has a number of key simple and conservative assumptions. NMFS' current acoustic guidance requires in most cases that we assume Level B harassment occurs when a marine mammal receives an acoustic signal at or above a simple step-function

threshold. For use of these active acoustic systems used during PIFSC research, NMFS uses the threshold is 160 dB re 1 μ Pa (rms) as the best available science indicates the temporal characteristics of a source are most influential in determining behavioral impacts (Gomez *et al.*, 2016), and it is NMFS long standing practice to apply the 160 dB threshold to intermittent sources. Estimating the number of exposures at the specified received level requires several determinations, each of which is described sequentially below:

- (1) A detailed characterization of the acoustic characteristics of the effective sound source or sources in operation;
- (2) The operational areas exposed to levels at or above those associated with Level B harassment when these sources are in operation;
- (3) A method for quantifying the resulting sound fields around these sources; and
- (4) An estimate of the average density for marine mammal species in each area of operation.

Quantifying the spatial and temporal dimension of the sound exposure footprint (or “swath width”) of the active acoustic devices in operation on moving vessels and their relationship to the average density of marine mammals enables a quantitative estimate of the number of individuals for which sound levels exceed the relevant threshold for each area. The number of potential incidents of Level B harassment is ultimately estimated as the product of the volume of water ensonified at 160 dB rms or higher and the volumetric density of animals determined from simple assumptions about their vertical stratification in the water column. Specifically, reasonable assumptions based on what is known about diving behavior across different marine mammal species were made to segregate those that predominately remain in the upper 200 m of the water column versus those that regularly dive deeper during foraging and transit. Methods for estimating each of these calculations are described in greater detail in the following sections, along with the simplifying assumptions made, and followed by the take estimates.

Sound source characteristics—An initial characterization of the general source parameters for the primary active acoustic sources operated by the PIFSC was conducted, enabling a full assessment of all sound sources used by the PIFSC and delineation of category 1 and category 2 sources, the latter of which were carried forward for analysis here. This auditing of the active acoustic sources also enabled a determination of the predominant sources that, when

operated, would have sound footprints exceeding those from any other simultaneously used sources. These sources were effectively those used directly in acoustic propagation modeling to estimate the zones within which the 160 dB rms received level would occur.

Many of these sources can be operated in different modes and with different output parameters. In modeling their

potential impact areas, those features among those given previously in table 2 (e.g., lowest operating frequency) of the proposed rulemaking that would lead to the most precautionary estimate of maximum received level ranges (i.e., largest ensonified area) were used. The effective beam patterns took into account the normal modes in which these sources are typically operated. While these signals are brief and

intermittent, a conservative assumption was taken in ignoring the temporal pattern of transmitted pulses in calculating Level B harassment events. Operating characteristics of each of the predominant sound sources were used in the calculation of effective line-kilometers and area of exposure for each source in each survey.

TABLE 6—EFFECTIVE EXPOSURE AREAS FOR PREDOMINANT ACOUSTIC SOURCES ACROSS TWO DEPTH STRATA

Active acoustic system	Effective exposure area: Sea surface to 200 m depth (km ²)	Effective exposure area: Sea surface to depth at which sound is attenuated to 160 dB SPL (km ²) ^a
Simrad EK60	0.0082	0.0413
Simrad EM300	0.112	3.7661
ADCP Ocean Surveyor	0.0086	0.0187

^a Greater than 200 m depth.

Calculating effective line-kilometers— As described below, based on the operating parameters for each source type, an estimated volume of water ensonified at or above the 160 dB rms threshold was calculated. In all cases where multiple sources are operated simultaneously, the one with the largest estimated acoustic footprint was considered to be the effective source. Two depth zones were defined for each of the four research areas: 0–200 m and >200 m. Effective line distance and volume ensonified was calculated for each depth strata (0–200 m and >200 m), where appropriate. In some cases, this resulted in different sources being predominant in each depth stratum for all line km (i.e., the total linear distance traveled during acoustic survey operations) when multiple sources were in operation. This was accounted for in estimating overall exposures for species that utilize both depth strata (deep divers). For each ecosystem area, the total number of line km that would be surveyed was determined, as was the relative percentage of surveyed line km associated with each source. The total line-kilometers for each survey, the dominant source, the effective percentages associated with each depth,

and the effective total volume ensonified are given below (table 7).

*Calculating volume of water ensonified—*The cross-sectional area of water ensonified to a 160 dB rms received level was calculated using a simple spherical spreading model of sound propagation loss (20 log R) such that there would be 60 dB of attenuation over 1000 m. Spherical spreading is a reasonable assumption even in relatively shallow waters since, taking into account the beam angle, the reflected energy from the seafloor will be much weaker than the direct source and the volume influenced by the reflected acoustic energy would be much smaller over the relatively short ranges involved. We also accounted for the frequency-dependent absorption coefficient and beam pattern of these sound sources, which is generally highly directional. The lowest frequency was used for systems that are operated over a range of frequencies. The vertical extent of this area is calculated for two depth strata. These results, shown in table 7, were applied differentially based on the typical vertical stratification of marine mammals (see table 8).

Following the determination of effective sound exposure area for transmissions considered in two

dimensions, the next step was to determine the effective volume of water ensonified at or above 160 dB rms for the entirety of each survey. For each of the three predominant sound sources, the volume of water ensonified is estimated as the athwartship cross-sectional area (in square kilometers) of sound at or above 160 dB rms (as illustrated in figure 6.1 of PIFSC's application) multiplied by the total distance traveled by the ship. Where different sources operating simultaneously would be predominant in each different depth strata, the resulting cross-sectional area calculated took this into account. Specifically, for shallow-diving species this cross-sectional area was determined for whichever was predominant in the shallow stratum, whereas for deeper-diving species this area was calculated from the combined effects of the predominant source in the shallow stratum and the (sometimes different) source predominating in the deep stratum. This creates an effective total volume characterizing the area ensonified when each predominant source is operated and accounts for the fact that deeper-diving species may encounter a complex sound field in different portions of the water column.

TABLE 7—FIVE-YEAR TOTAL LINE KILOMETERS FOR EACH VESSEL AND ITS PREDOMINANT SOURCE WITHIN TWO DEPTH STRATA

Vessel—survey	Average line kms per vessel	Dominant source	% Time source dominant (0–200m)	Line km/ dominant source (0–200m)	Volume ensonified at 0–200 m depth (km³)	% Time source dominant (>200m)	Line km/ dominant source (>200m)	Volume ensonified at >200 m depth (km³)
Hawaiian Archipelago Research Area								
<i>Hīialakai</i> RAMP	36,000	Simrad EM 300	25	9,000	1,000.8	25	9,000	32,894.1
	36,000	ADCP Ocean Surveyor.	75	27,000	232.2	75	27,000	272.1
<i>Hīialakai</i> Coral Reef Benthic Mapping	17,000	Simrad EM 300	100	17,000	1,890.4	100	17,000	62,133.3
<i>Oscar Elton Sette</i> Kona IEA	5,000	EK60	0	0	0	100	5,000	165.5
	5,000	ADCP Ocean Surveyor.	100	5,000	43.0	0	0	0
<i>Oscar Elton Sette</i> Insular Fish Abundance Estimation.	3,000	EK60	0	0	0	100	3,000	99.3
	3,000	ADCP Ocean Surveyor.	100	3,000	28.5	0	0	0
<i>Hīialakai</i> Deep Coral and Sponge Research	5,500	Simrad EM300	100	5,500	611.6	100	5,500	20,102.0
<i>Oscar Elton Sette</i> Sampling Pelagic Stages of Insular Fish Species.	4,000	EK60	0	0	0	100	4,000	132.4
	4,000	ADCP Ocean Surveyor.	100	4,000	34.4	0	0	0
<i>Oscar Elton Sette</i> Cetacean Ecology Assessment.	40,000	EK60	0	0	0	100	40,000	1,324.0
	40,000	ADCP Ocean Surveyor.	100	40,000	344.0	0	0	0
<i>Hīialakai</i> or <i>Oscar Elton Sette</i> RAMP Gear & Instrument Development & Field Trials.	2,500	EK60	0	0	0	100	2,500	82.8
	2,500	ADCP Ocean Surveyor.	100	2,500	21.5	0	0	0
Mariana Archipelago Research Area								
<i>Hīialakai</i> RAMP	18,000	Simrad EK60	25	4,500	500.4	25	4,500	16,447.1
	18,000	ADCP Ocean Surveyor.	75	13,500	116.1	75	13,500	136.4
<i>Hīialakai</i> Coral Reef Benthic Mapping	8,600	Simrad EM 300	100	8,600	956.3	100	8,600	31,432.1
<i>Oscar Elton Sette</i> Insular Fish Abundance Estimation.	2,000	EK60	0	0	0	100	2,000	66.2
	2,000	ADCP Ocean Surveyor.	100	2,000	17.2	0	0	0
<i>Hīialakai</i> Deep Coral and Sponge	5,500	Simrad EM 300	100	5,500	611.6	100	5,500	20,102.0
<i>Oscar Elton Sette</i> Sampling Pelagic Stages of Insular Fish.	2,000	EK60	0	0	0	100	2,000	66.2
	2,000	ADCP Ocean Surveyor.	100	2,000	17.2	0	0	0
<i>Oscar Elton Sette</i> Cetacean Ecology Assessment.	20,000	EK60	0	0	0	100	20,000	662.0
	20,000	ADCP Ocean Surveyor.	100	20,000	172.0	0	0	0
<i>Hīialakai</i> Mariana Baseline Surveys	3,000	EK60	0	0	0	100	3,000	99.3
	3,000	ADCP Ocean Surveyor.	100	3,000	25.8	0	0	0
American Samoa Research Area								
NOAA ship <i>Hīialakai</i> RAMP	18,000	Simrad EK60	25	4,500	500.4	25	4,500	16,447.1
	18,000	ADCP Ocean Surveyor.	75	13,500	116.1	75	13,500	136.4
<i>Hīialakai</i> Coral Reef Benthic Mapping	8,600	Simrad EM 300	100	8,600	956.3	100	8,600	31,432.1
NOAA ship <i>Oscar Elton Sette</i> Insular Fish Abundance Estimation.	2,000	EK60	0	0	0	100	2,000	66.2
	2,000	ADCP Ocean Surveyor.	100	2,000	17.2	0	0	0
<i>Hīialakai</i> Deep Coral and Sponge Research	500	Simrad EM 300	100	500	55.6	100	500	1,827.5
<i>Oscar Elton Sette</i> Sampling Pelagic Stage of Insular Fish.	2,000	EK60	0	0	0	100	2,000	66.2
	2,000	ADCP Ocean Surveyor.	100	2,000	17.2	0	0	0
<i>Oscar Elton Sette</i> Cetacean Ecology Assessment.	20,000	EK60	0	0	0	100	20,000	662.0
	20,000	ADCP Ocean Surveyor.	100	20,000	172.0	0	0	0
Western and Central Pacific Research Area								
<i>Hīialakai</i> RAMP	18,000	Simrad EK60	25	4,500	500.4	25	4,500	16,447.1
	18,000	ADCP Ocean Surveyor.	75	13,500	116.1	75	13,500	136.4
<i>Hīialakai</i> Coral Reef Benthic Mapping	8,600	Simrad EM 300	100	8,600	956.3	100	8,600	31,432.1
<i>Oscar Elton Sette</i> Oceanographic	7,000	EK60	0	0	0	100	7,000	231.7
	7,000	ADCP Ocean Surveyor.	100	7,000	60.2	0	0	0
<i>Oscar Elton Sette</i> Insular Fish Abundance Estimation.	2,000	EK60	0	0	0	100	2,000	66.2
	2,000	ADCP Ocean Surveyor.	100	2,000	17.2	0	0	0
<i>Hīialakai</i> Deep Coral and Sponge	500	Simrad EM 300	100	500	55.6	100	500	1,827.5
<i>Oscar Elton Sette</i> Sampling Pelagic Stages of Insular Fish.	2,000	EK60	0	0	0	100	2,000	66.2
	2,000	ADCP Ocean Surveyor.	100	2,000	17.2	0	0	0

TABLE 7—FIVE-YEAR TOTAL LINE KILOMETERS FOR EACH VESSEL AND ITS PREDOMINANT SOURCE WITHIN TWO DEPTH STRATA—Continued

Vessel—survey	Average line kms per vessel	Dominant source	% Time source dominant (0–200m)	Line km/dominant source (0–200m)	Volume ensonified at 0–200 m depth (km ³)	% Time source dominant (>200m)	Line km/dominant source (>200m)	Volume ensonified at >200 m depth (km ³)
Oscar Elton Sette Cetacean Ecology Assessment.	20,000 20,000	EK60 ADCP Ocean Surveyor.	0 100	0 20,000	0 172.0	100 0	20,000 0	662.0 0

Marine Mammal Densities—One of the primary limitations to traditional estimates of behavioral harassment from acoustic exposure is the assumption that animals are uniformly distributed in time and space across very large geographical areas, such as those being considered here. There is ample evidence that this is in fact not the case, and marine species are highly heterogeneous in terms of their spatial distribution, largely as a result of species-typical utilization of heterogeneous ecosystem features. Some more sophisticated modeling efforts have attempted to include species-typical behavioral patterns and diving parameters in movement models that more adequately assess the spatial and temporal aspects of distribution and thus exposure to sound. While simulated movement models were not used to mimic individual diving or aggregation parameters in the determination of animal density in this estimation, the vertical stratification of marine mammals based on known or reasonably assumed diving behavior was integrated into the density estimates used.

First, typical two-dimensional marine mammal density estimates (animals/km²) were obtained from various sources for each ecosystem area. These were estimated from marine mammal SARs and other sources (please see table 6–5 of PIFSC's application). There are a number of caveats associated with these estimates:

(1) They are often calculated using visual sighting data collected during one season rather than throughout the year.

The time of year when data were collected and from which densities were estimated may not always overlap with the timing of PIFSC fisheries surveys (detailed previously in *Detailed Description of Activities*).

(2) The densities used for purposes of estimating acoustic exposures do not take into account the patchy distributions of marine mammals in an ecosystem, at least on the moderate to fine scales over which they are known to occur. Instead, animals are considered evenly distributed throughout the assessed area, and seasonal movement patterns are not taken into account.

(3) Marine mammal density information is in many cases based on limited historical surveys and may be incomplete or absent for many regions of the vast geographic area addressed by PIFSC fisheries research. As a result density estimates for some species/stocks in some regions are based on the best available data for other regions and/or similar stocks.

In addition, and to account for at least some coarse differences in marine mammal diving behavior and the effect this has on their likely exposure to these kinds of often highly directional sound sources, a volumetric density of marine mammals of each species was determined. This value is estimated as the abundance averaged over the two-dimensional geographic area of the surveys and the vertical range of typical habitat for the population. Habitat ranges were categorized in two generalized depth strata (0–200 m and greater than 200 m) based on gross

differences between known generally surface-associated and typically deep-diving marine mammals (*e.g.*, Reynolds and Rommel, 1999; Perrin *et al.*, 2009). Animals in the shallow-diving stratum were assumed, on the basis of empirical measurements of diving with monitoring tags and reasonable assumptions of behavior based on other indicators, to spend a large majority of their lives (*i.e.*, greater than 75 percent) at depths shallower than 200 m. Their volumetric density and thus exposure to sound is therefore limited by this depth boundary. Species in the deeper diving stratum were reasonably estimated to dive deeper than 200 m and spend 25 percent or more of their lives at these greater depths. Their volumetric density and thus potential exposure to sounds up to the 160 dB rms level is extended from the surface to the depth at which this received level condition occurs. Their volumetric density and thus potential exposure to sound at or above the 160 dB rms threshold is extended from the surface to 500 m, (*i.e.*, nominal maximum water depth in regions where these surveys occur).

The volumetric densities are estimates of the three-dimensional distribution of animals in their typical depth strata. For shallow-diving species the volumetric density is the area density divided by 0.2 km (*i.e.*, 200 m). For deeper diving species, the volumetric density is the area density divided by a nominal value of 0.5 km (*i.e.*, 500 m). The two-dimensional and resulting three-dimensional (volumetric) densities for each species in each ecosystem area are shown in table 8.

TABLE 8—VOLUMETRIC DENSITIES CALCULATED FOR EACH SPECIES IN THE PIFSC RESEARCH AREAS

Species (common name)	Typical dive depth strata		Area density (#/km ²)	Volumetric density (#/km ³)
	0–200 m	>200 m		
Hawaiian Archipelago Research Area				
Pantropical spotted dolphin	X	.....	0.02332	0.1166
Striped dolphin	X	.....	0.025	0.125
Spinner dolphin—all insular	X	.....	0.009985	0.0499255
Rough-toothed dolphin	X	.....	0.02963	0.14815
Bottlenose dolphin	X	.....	0.00899	0.04495
Risso's dolphin .....	.....	X	0.00474	0.00948
Fraser's dolphin	X	.....	0.02104	0.1052

TABLE 8—VOLUMETRIC DENSITIES CALCULATED FOR EACH SPECIES IN THE PIFSC RESEARCH AREAS—Continued

Species (common name)	Typical dive depth strata		Area density (#/km ²)	Volumetric density (#/km ³)
	0–200 m	>200 m		
Melon-headed whale	X	.....	0.00354	0.0177
Melon-headed whale—Kohala stock	X	.....	0.001415	0.0070734
Pygmy killer whale	X	.....	0.00435	0.02175
False killer whale—pelagic .....	.....	X	0.0006	0.0012
False killer whale—MHI insular .....	.....	X	0.0009	0.0018
False killer whale—NWHI .....	.....	X	0.0014	0.0028
Short-finned pilot whale .....	.....	X	0.00797	0.01594
Killer whale	X	.....	0.00006	0.0003
Sperm whale .....	.....	X	0.00186	0.00372
Pygmy sperm whale .....	.....	X	0.00291	0.00582
Dwarf sperm whale .....	.....	X	0.00714	0.01428
Blainville's beaked whale .....	.....	X	0.00086	0.00172
Cuvier's beaked whale .....	.....	X	0.0003	0.0006
Longman's beaked whale .....	.....	X	0.00311	0.00622
Unidentified Mesoplodon .....	.....	X	0.00189	0.00378
Unidentified beaked whale .....	.....	X	0.00117	0.00234
Hawaiian monk seal	X	.....	0.003741	0.0187042

Mariana Archipelago Research Area

Pantropical spotted dolphin	X	.....	0.0226	0.113
Striped dolphin	X	.....	0.00616	0.0308
Spinner dolphin	X	.....	0.009985	0.0499255
Rough-toothed dolphin	X	.....	0.00314	0.0157
Bottlenose dolphin	X	.....	0.00029	0.00145
Risso's dolphin .....	.....	¹ X	0.00021	0.00042
Fraser's dolphin	X	.....	0.02104	0.1052
Melon-headed whale	X	.....	0.00428	0.0214
Pygmy killer whale	X	.....	0.00014	0.0007
False killer whale—pelagic .....	.....	¹ X	0.00111	0.00222
Short-finned pilot whale .....	.....	X	0.00159	0.00318
Killer whale	X	.....	0.00006	0.0003
Sperm whale .....	.....	X	0.00123	0.00246
Pygmy sperm whale .....	.....	X	0.00291	0.00582
Dwarf sperm whale .....	.....	X	0.00714	0.01428
Blainville's beaked whale .....	.....	X	0.00086	0.00172
Cuvier's beaked whale .....	.....	X	0.0003	0.0006
Unidentified beaked whale .....	.....	X	0.00117	0.00234

American Samoa Research Area

Pantropical spotted dolphin	X	.....	0.02332	0.1166
Spinner dolphin	X	.....	0.00475	0.02375
Rough-toothed dolphin	X	.....	0.02963	0.14815
Bottlenose dolphin	X	.....	0.00899	0.04495
False killer whale	X	.....	0.00090	0.0045
Short-finned pilot whale .....	.....	X	0.00797	0.01594
Killer whale	X	.....	0.00006	0.0003
Sperm whale .....	.....	X	0.00186	0.00372
Dwarf sperm whale .....	.....	X	0.00714	0.01428
Cuvier's beaked whale .....	.....	X	0.00030	0.0006
Unidentified beaked whale .....	.....	X	0.00117	0.00234

Western and Central Pacific Research Area

Pantropical spotted dolphin	X	.....	0.02332	0.1166
Striped dolphin	X	.....	0.025	0.125
Spinner dolphin	X	.....	0.011095	0.055475
Rough-toothed dolphin	X	.....	0.02963	0.14815
Bottlenose dolphin	X	.....	0.00899	0.04495
Risso's dolphin .....	.....	¹ X	0.00474	0.00948
Fraser's dolphin	X	.....	0.02104	0.1052
Melon-headed whale	X	.....	0.00354	0.0177
Pygmy killer whale	X	.....	0.00435	0.02175
False killer whale .....	.....	¹ X	0.00102	0.00204
Short-finned pilot whale .....	.....	X	0.00797	0.01594
Killer whale	X	.....	0.00006	0.0003
Sperm whale .....	.....	X	0.00186	0.00372
Pygmy sperm whale .....	.....	X	0.00291	0.00582
Dwarf sperm whale .....	.....	X	0.00714	0.01428
Blainville's beaked whale .....	.....	X	0.00086	0.00172

TABLE 8—VOLUMETRIC DENSITIES CALCULATED FOR EACH SPECIES IN THE PIFSC RESEARCH AREAS—Continued

Species (common name)	Typical dive depth strata		Area density (#/km ²)	Volumetric density (#/km ³)
	0–200 m	>200 m		
Cuvier's beaked whale		X	0.0003	0.0006
Deraniyagala's beaked whale		X	0.0003	0.0006
Longman's beaked whale		X	0.00311	0.00622
Unidentified beaked whale		X	0.00117	0.00234

¹ NMFS has classified these species as deep diving in the PIFSC research areas, which is different from their classification as shallow-diving species by the other NMFS Fisheries Science Centers. These classifications of deep-diving are based on unpublished data from telemetry studies including depth of dive and stomach contents of deep-diving prey items (E. Oleson, personal communication, November 10, 2015).

Using Area of Ensonification and Volumetric Density to Estimate Exposures—Estimates of potential incidents of Level B harassment (*i.e.*, potential exposure to levels of sound at or exceeding the 160 dB rms threshold) are then calculated by using (1) the combined results from output characteristics of each source and identification of the predominant sources in terms of acoustic output; (2) their relative annual usage patterns for each operational area; (3) a source-specific determination made of the area of water associated with received sounds at the extent of a depth boundary; and (4) determination of a biologically-relevant volumetric density of marine mammal species in each area. Estimates of Level B harassment by

acoustic sources are the product of the volume of water ensonified at 160 dB rms or higher for the predominant sound source for each relevant survey and the volumetric density of animals for each species. Source- and stratum-specific exposure estimates are the product of these ensonified volumes and the species-specific volumetric densities (tables 7, 8 and 9). The general take estimate equation for each source in each depth stratum is density * (ensonified area * line kms). To illustrate, we use the ADCP Ocean Surveyor in the HARA and the pantropical spotted dolphin as an example.

(1) ADCP Ocean Surveyor ensonified area (0–200 m) = 0.0086 km².

(2) Total Line kms = 81,500 km.

(3) Pantropical spotted dolphin density (0–200 m) = 0.11660 dolphins/km³.

(4) Estimated exposures to sound ≥160 dB rms = 0.11660 pantropical spotted dolphin/km³ * (0.0086 km² * 81,500 km) = 81.72 (rounded up) = 82 estimated pantropical spotted dolphin exposures to SPLs ≥160 dB rms resulting from use of the ADCP Ocean Surveyor in the HARA.

Totals in tables 9–12 represent sums across all relevant surveys and sources rounded up to the nearest whole number. Note that take of baleen whales is not predicted due to the lack of overlap in their hearing range with the operating frequencies of PIFSC acoustic sources.

TABLE 9—DENSITIES AND ESTIMATED SOURCE-, STRATUM-, AND SPECIES-SPECIFIC 5-YEAR ESTIMATES OF LEVEL B HARASSMENT IN THE HARA

Species/stocks	Volumetric density (#/km ³)	Estimated Level B harassment (numbers of animals) in 0–200m depth stratum			Estimated Level B harassment in >200m depth stratum		Total take ^a
		EK60	EM300	ADCP	EK60	EM300	
Pantropical spotted dolphin	0.11660	0	408	82	0	0	490
Striped dolphin	0.12500	0	438	88	0	0	525
Spinner dolphin—all insular	0.04993	0	175	35	0	0	210
Rough-toothed dolphin	0.14815	0	519	104	0	0	623
Bottlenose dolphin (all stocks)	0.04495	0	157	32	0	0	189
Risso's dolphin	0.00948	0	33	7	17	1,091	1,148
Fraser's dolphin	0.10520	0	368	74	0	0	442
Melon-headed whale	0.01770	0	62	12	0	0	74
Melon-headed whale—Kohala stock	0.00707	0	25	5	0	0	30
Pygmy killer whale	0.02175	0	76	15	0	0	91
False killer whale—pelagic	0.00120	0	4	1	2	138	145
False killer whale—MHI insular	0.00180	0	6	1	3	207	218
False killer whale—NWHI	0.00280	0	10	2	5	322	339
Short-finned pilot whale	0.01594	0	56	11	29	1,835	1,931
Killer whale	0.00030	0	1	0	0	0	^b 6
Sperm whale	0.00372	0	13	3	7	428	451
Pygmy sperm whale	0.00582	0	20	4	10	670	705
Dwarf sperm whale	0.01428	0	50	10	26	1,644	1,730
Blainville's beaked whale	0.00172	0	6	1	3	198	208
Cuvier's beaked whale	0.00060	0	2	0	1	69	73
Longman's beaked whale	0.00622	0	22	4	11	716	753
Unidentified <i>Mesoplodon</i>	0.00378	0	13	3	7	435	458
Unidentified beaked whale	0.00234	0	8	2	4	269	283
Hawaiian monk seal	0.01870	0	66	13	0	0	79

^a Total take may not equal sum of estimated take from each acoustic source and depth stratum due to rounding of fractional calculated takes.

^b Where calculated take over 5 years is less than typical group size, authorized take has been increased to mean group size (U.S. Navy 2017).

TABLE 10—DENSITIES AND ESTIMATED SOURCE-, STRATUM-, AND SPECIES-SPECIFIC 5-YEAR ESTIMATES OF LEVEL B HARASSMENT IN THE MARA

Species	Volumetric density (#/km ³)	Estimated Level B harassment (numbers of animals) in 0–200m depth stratum			Estimated Level B harassment in >200m depth stratum			Total take ^a
		EK60	EM300	ADCP	EK60	EM300	ADCP	
Pantropical spotted dolphin	0.11300	0	234	37	0	0	0	271
Striped dolphin	0.03080	0	64	10	0	0	0	74
Spinner dolphin	0.04993	0	103	17	0	0	0	120
Rough-toothed dolphin	0.01570	0	32	5	0	0	0	38
Bottlenose dolphin	0.00145	0	3	0	0	0	0	^b 6
Risso's dolphin	0.00042	0	1	0	0	29	0	30
Fraser's dolphin	0.10520	0	218	35	0	0	0	^b 283
Melon-headed whale	0.02140	0	44	7	0	0	0	^b 73
Pygmy killer whale	0.00070	0	1	0	0	0	0	^b 7
False killer whale (pelagic)	0.00222	0	5	1	2	151	0	159
Short-finned pilot whale	0.00318	0	7	1	3	216	0	227
Killer whale	0.00030	0	1	0	0	0	0	^b 4
Sperm whale	0.00246	0	5	1	2	167	0	175
Pygmy sperm whale	0.00582	0	12	2	5	396	1	416
Dwarf sperm whale	0.01428	0	30	5	13	971	2	1,020
Blainville's beaked whale	0.00172	0	4	1	2	117	0	123
Cuvier's beaked whale	0.00060	0	1	0	1	41	0	43
Unidentified beaked whale	0.00234	0	5	1	2	159	0	167

^a Total take may not equal sum of estimated take from each acoustic source and depth stratum due to rounding of fractional calculated takes.

^b Where calculated take over 5 years is less than typical group size, authorized take has been increased to mean group size (U.S. Navy 2017).

TABLE 11—DENSITIES AND ESTIMATED SOURCE-, STRATUM-, AND SPECIES-SPECIFIC 5-YEAR ESTIMATES OF LEVEL B HARASSMENT IN THE ASARA

Species	Volumetric density (#/km ³)	Estimated Level B harassment (numbers of animals) in 0–200m depth stratum			Estimated Level B harassment in >200m depth stratum			Total take ^a
		EK60	EM300	ADCP	EK60	EM300	ADCP	
Pantropical spotted dolphin	0.11660	0	176	38	0	0	0	214
Spinner dolphin	0.02375	0	36	8	0	0	0	44
Rough-toothed dolphin	0.14815	0	224	48	0	0	0	272
Bottlenose dolphin	0.04495	0	68	14	0	0	0	82
False killer whale	0.00450	0	7	1	0	0	0	^b 10
Short-finned pilot whale	0.01594	0	24	5	13	792	2	836
Killer whale	0.00030	0	0	0	0	0	0	^b 4
Sperm whale	0.00372	0	6	1	3	185	1	195
Dwarf sperm whale	0.01428	0	22	5	11	710	2	749
Cuvier's beaked whale	0.00060	0	1	0	0	30	0	31
Unidentified beaked whale	0.00234	0	4	1	2	116	0	123

^a Total take may not equal sum of estimated take from each acoustic source and depth stratum due to rounding of fractional calculated takes.

^b Where calculated take over 5 years is less than typical group size, authorized take has been increased to mean group size (U.S. Navy 2017).

TABLE 12—DENSITIES AND ESTIMATED SOURCE-, STRATUM-, AND SPECIES-SPECIFIC 5-YEAR ESTIMATES OF LEVEL B HARASSMENT IN THE WCPRA

Species	Volumetric density (#/km ³)	Estimated Level B harassment (numbers of animals) in 0–200m depth stratum			Estimated Level B harassment in >200m depth stratum			Total Take ^a
		EK60	EM300	ADCP	EK60	EM300	ADCP	
Pantropical spotted dolphin	0.11660	0	176	45	0	0	0	221
Striped dolphin	0.12500	0	189	48	0	0	0	237
Spinner dolphin	0.05548	0	84	21	0	0	0	105
Rough-toothed dolphin	0.14815	0	224	57	0	0	0	281
Bottlenose dolphin	0.04495	0	68	17	0	0	0	85
Risso's dolphin	0.00948	0	14	4	10	471	1	500
Fraser's dolphin	0.10520	0	159	40	0	0	0	283 ^b
Melon-headed whale	0.01770	0	27	7	0	0	0	73 ^b
Pygmy killer whale	0.02175	0	33	8	0	0	0	41

TABLE 12—DENSITIES AND ESTIMATED SOURCE-, STRATUM-, AND SPECIES-SPECIFIC 5-YEAR ESTIMATES OF LEVEL B HARASSMENT IN THE WCPRA—Continued

Species	Volumetric density (#/km ³)	Estimated Level B harassment (numbers of animals) in 0–200m depth stratum			Estimated Level B harassment in >200m depth stratum			Total Take ^a
		EK60	EM300	ADCP	EK60	EM300	ADCP	
False killer whale	0.00204	0	3	1	2	101	0	107
Short-finned pilot whale	0.01594	0	24	6	16	792	2	841
Killer whale	0.00030	0	0	0	0	0	0	4 ^b
Sperm whale	0.00372	0	6	1	4	185	1	197
Pygmy sperm whale	0.00582	0	9	2	6	289	1	307
Dwarf sperm whale	0.01428	0	22	5	15	710	2	754
Blainville's beaked whale	0.00172	0	3	1	2	85	0	91
Cuvier's beaked whale	0.00060	0	1	0	1	30	0	32
Deraniyagala's beaked whale	0.00060	0	1	0	1	30	0	32
Longman's beaked whale	0.00622	0	9	2	6	309	1	328
Unidentified beaked whale	0.00234	0	4	1	2	116	0	123

^a Total take may not equal sum of estimated take from each acoustic source and depth stratum due to rounding of fractional calculated takes.

^b Where calculated take over 5 years is less than typical group size, authorized take has been increased to mean group size (U.S. Navy 2018)

TABLE 13—TOTAL AUTHORIZED ANNUAL AND 5-YEAR TAKES BY LEVEL B HARASSMENT FROM ACOUSTIC DISTURBANCE

Species	All areas 5-year total take by Level B harassment	All areas average annual take by Level B harassment ^a
Blainville's beaked whale	422	84
Bottlenose dolphin	362	72
Cuvier's beaked whale	179	36
Deraniyagala's beaked whale	32	6
Dwarf sperm whale	4,253	851
False killer whale	978	196
Fraser's dolphin	1,008	202
Hawaiian monk seal	79	16
Killer whale	18	4
Longman's beaked whale	1,081	216
Melon-headed whale	250	50
Pantropical spotted dolphin	1,196	239
Pygmy killer whale	139	28
Pygmy sperm whale	1,428	286
Risso's dolphin	1,678	336
Rough-toothed dolphin	1,214	243
Short-finned pilot whale	3,835	767
Sperm whale	1,018	204
Spinner dolphin	479	96
Striped dolphin	836	167
Unidentified beaked whale	696	139
Unidentified <i>Mesoplodon</i>	458	92

^a Average annual take calculated by dividing total 5-year take by five and rounding to nearest whole number.

Estimated Take Due to Physical Disturbance

Take due to physical disturbance could potentially happen, as it is likely that some Hawaiian monk seals will move or flush from known haul-outs into the water in response to the presence or sound of PIFSC vessels or

researchers. In the MHI and the NWHI, there are numerous sites used by the Hawaiian monk seal to haul out (sandy beaches, rocky outcroppings, exposed reefs) where the physical presence and sounds of researchers walking by or passing nearby in small boats may disturb animals present. Disturbance to Hawaiian monk seals would occur in

the HARA only. Physical disturbance would result in no greater than Level B harassment. Behavioral responses may be considered according to the scale shown in table 14 and based on the method developed by Mortenson (1996). We consider responses corresponding to levels 2–3 to constitute Level B harassment.

TABLE 14—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE

Level	Type of response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.

TABLE 14—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE—Continued

Level	Type of response	Definition
2*	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3*	Flush	All retreats (flushes) to the water.

* Only observations of disturbance levels 2 and 3 are recorded as takes.

The draft 2023 SAR for Hawaiian monk seal estimates the total abundance in the Hawaiian archipelago is 1,564 seals (CV = 0.05). Not all of these seals haul out at the same time or at the same places, and therefore it is difficult to predict if any monk seals will be present at any particular research location at any point in time. For MTBAP activities, we use anecdotal information from the past 5 years on monk seal presence during turtle surveys, but for the projects where seal observations have not been recorded in the past, the best way to estimate the amount of Level B harassment from those projects (*i.e.*, Reef Assessment and Monitoring Program (RAMP) and Marine Debris Research and Removal (MDRR)) would be to approximate the number of seals hauled out at any point in time across the HARA and the probability that a researcher would be close enough to actually disturb the seal.

Since 2018, MTBAP has been systematically recording any potential takes of monk seals during turtle survey activities in the NWHI. This data includes the total number of seals present, and the number of seals that reacted to the turtle research activities by level of disturbance (table 14). On any given survey, the maximum number of seals that were observed at one time over 664 surveys was 52 and the average number of monk seals reacting to the presence of researchers at levels 2–3 (table 14) in 1 year was 29 seals (NMFS unpublished data).

The greatest number of levels 2 and 3 disturbances of monk seal in 1 year was 62 in 2021; however the next highest annual disturbance number was 28 in 2020 (NMFS unpublished data). 2021 was a peak sea turtle nesting season and had a long field season (6 months, compared to a typical 4 month season). In comparison, 2018 was also a peak sea turtle nesting season that had a similarly long field season, but had only 20 records of level 2–3 reactions. Given these data, and allowing for a buffer for seals at other islands where sea turtle research activities occur, we would not expect take of monk seals to exceed more than approximately 70 instances of Level B harassment in any given year

due to MTBAP research activities. This estimate of potential annual monk seal take resulting from MTBAP research activities is small relative to the annual take by Level B harassment of monk seals from other PIFSC research, as described in the 2021 proposed rule and detailed in the following, and we anticipate that the total described below would be inclusive of the amount anticipated to result from MTBAP activities.

Parrish *et al.* (2002) estimated approximately one-third of the total population may be hauled out at any point in time. Assuming that all seals have an equal probability of hauling out anywhere in the archipelago, one-third of 1,564 is approximately 500 individual monk seals. Given that the two surveys with the highest probability of disturbing monk seals, aside from MTBAP research, (*i.e.*, RAMP and MDRR) systematically circumnavigate all the islands and atolls when they are conducted, we could estimate the annual maximum number of Level B harassment takes as 1,000 during the years when these are conducted. Over the course of 5 years, this would be approximately 5,000 potential instances of Level B harassment if all the surveys took place every year at every location across the HARA. However, RAMP surveys occur in the HARA approximately twice every 5 years and MDRR Surveys are rarely funded to a level that would support complete circumnavigation of the HARA each year. In addition, during some RAMP surveys the location of marine debris are identified (and recorded), thus precluding the need for marine debris identification later (only removal). Therefore, the approximately 5,000 potential disturbances over 5 years can be reduced by assuming that the maximum annual harassment would occur on only 2 of 5 years, *i.e.*, to approximately 2,000 potential disturbances over 5 years. Furthermore, not all small boat operations during the surveys for these 2 programs are close enough to the shoreline to actually cause a disturbance like those caused from MTBAP activities (*e.g.*, a seal may be hauled out on a beach in a bay but

the shallow fringing reef may keep the RAMP or MDRR small boats from getting within half of a mile from shore). Additionally, all researchers implement avoidance and minimization measures while carrying out the surveys to further reduce the likelihood of disturbing monk seals. The approximately 2,000 potential disturbances can realistically be expected to be reduced through avoidance or sheer geographical separation by at least 50 percent based on prior experience of the PIFSC. Therefore, the PIFSC has requested, and NMFS is authorizing, 1,000 instances of Level B harassment of Hawaiian monk seals due to the physical presence of researchers over the 5-year authorization period, or an average of 200 takes by Level B harassment per year. We anticipate that this estimate would be inclusive of the takes resulting from MTBAP activities.

Mitigation

In order to issue an incidental take authorization under Section 101(a)(5)(A) or (D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the specified 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 such species or stock” for certain subsistence uses. NMFS’ regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such 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, we carefully consider 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, impact on operations, personnel safety, and practicality of implementation.

Mitigation for Marine Mammals and Their Habitat

The PIFSC has invested significant time and effort in identifying technologies, practices, and equipment to minimize the impact of the planned activities on marine mammal species and stocks and their habitat. The mitigation measures discussed here have been determined to be both effective and practicable and, in some cases, have already been implemented by the PIFSC. In addition, the PIFSC is actively conducting research to determine if gear modifications are effective at reducing take from certain types of gear; any potentially effective and practicable gear modification mitigation measures will be discussed as research results are available as part of the adaptive management strategy included in this rule.

General Measures

Visual Monitoring—Effective monitoring is a key step in implementing mitigation measures and is achieved through regular marine mammal watches. Marine mammal watches are a standard part of conducting PIFSC fisheries research activities, particularly those activities that use gears that are known to or potentially interact with marine mammals. Marine mammal watches and monitoring occur during daylight hours prior to deployment of gear (e.g., trawls, longline gear), and they continue until gear is brought back on board. If marine mammals are sighted in the area and are considered to be at risk of interaction with the research gear, then the sampling station is either moved or canceled or the activity is suspended until the marine mammals are no longer in the area. On smaller vessels, the Chief Scientist (CS) and the vessel operator are typically those looking for marine mammals and other protected species. When marine mammal researchers are on board (distinct from marine mammal

observers dedicated to monitoring for potential gear interactions), they will record the estimated species and numbers of animals present and their behavior. If marine mammal researchers are not on board or available, then the CS in cooperation with the vessel operator will monitor for marine mammals and provide training as practical to bridge crew and other crew to observe and record such information.

Coordination and Communication—When PIFSC survey effort is conducted aboard NOAA-owned vessels, there are both vessel officers and crew and a scientific party. Vessel officers and crew are not composed of PIFSC staff but are employees of NOAA's Office of Marine and Aviation Operations (OMAO), which is responsible for the management and operation of NOAA fleet ships and aircraft and is composed of uniformed officers of the NOAA Commissioned Corps as well as civilians. The ship's officers and crew provide mission support and assistance to embarked scientists, and the vessel's Commanding Officer (CO) has ultimate responsibility for vessel and passenger safety and, therefore, decision authority regarding the implementation of mitigation measures. When PIFSC survey effort is conducted aboard cooperative platforms (i.e., non-NOAA vessels), ultimate responsibility and decision authority again rests with non-PIFSC personnel (i.e., vessel's master or captain). Although the discussion throughout this rule does not always explicitly reference those with decision-making authority from cooperative platforms, all mitigation measures apply with equal force to non-NOAA vessels and personnel as they do to NOAA vessels and personnel. Decision authority includes the implementation of mitigation measures (e.g., whether to stop deployment of trawl gear upon observation of marine mammals). The scientific party involved in any PIFSC survey effort is composed, in part or whole, of PIFSC staff and is led by a CS. Therefore, because the PIFSC—not OMAO or any other entity that may have authority over survey platforms used by PIFSC—is the applicant to whom any incidental take authorization issued under the authority of these regulations would be issued, we require that the PIFSC take all necessary measures to coordinate and communicate in advance of each specific survey with OMAO, or other relevant parties, to ensure that all mitigation measures and monitoring requirements described herein, as well as the specific manner of implementation and relevant event-

contingent decision-making processes, are clearly understood and agreed-upon. This may involve description of all required measures when submitting cruise instructions to OMAO or when completing contracts with external entities. PIFSC will coordinate and conduct briefings at the outset of each survey and as necessary between the ship's crew (CO/master or designee(s), as appropriate) and scientific party in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures. The CS will be responsible for coordination with the Officer on Deck (OOD; or equivalent on non-NOAA platforms) to ensure that requirements, procedures, and decision-making processes are understood and properly implemented.

The PIFSC will coordinate with the local Pacific Islands Regional Stranding Coordinator and the NMFS Stranding Coordinator for any unusual protected species behavior and any stranding, beached live/dead, or floating protected species that are encountered during field research activities. If a large whale (i.e., baleen whale or sperm whale) is alive and entangled in fishing gear, the vessel will immediately call the U.S. Coast Guard at VHF Ch. 16 and/or the appropriate Marine Mammal Health and Stranding Response Network for instructions. All entanglements (live or dead) and vessel strikes must be reported immediately to the NOAA Fisheries Marine Mammal Stranding Hotline at 888-256-9840.

Vessel Speed—Vessel speed during active sampling rarely exceeds 5 kt, with typical speeds being 2–4 kt. Transit speeds vary from 6–14 kt but average 10 kt. These low vessel speeds minimize the potential for ship strike (see Potential Effects of the Specified Activity on Marine Mammals and Their Habitat for an in-depth discussion of ship strike). In addition, as a standard operating practice, PIFSC maintains a 100-yard (91-m) distance between research vessels and large whales whenever and wherever it conducts fisheries research activities. At any time during a survey or in transit, if a crew member or designated marine mammal observer standing watch sights marine mammals that may intersect with the vessel course that individual will immediately communicate the presence of marine mammals to the bridge for appropriate course alteration or speed reduction, as possible, to avoid incidental collisions.

Gears Not Subject to Specific Measures—The PIFSC deploys a wide variety of gear to sample the marine environment during all of their research

cruises. Many of these types of gear (e.g., plankton nets, video camera and remotely-operated vehicle (ROV) deployments) are not considered to pose any risk to marine mammals and are therefore not subject to specific mitigation measures. However, at all times when the PIFSC is conducting survey operations at sea, the OOD and/or CS and crew will monitor for any unusual circumstances that may arise at a sampling site and use best professional judgment to avoid any potential risks to marine mammals during use of all research equipment.

Handling Procedures—Handling procedures are those taken to return a live animal to the sea or process a dead animal. The PIFSC will implement a number of handling protocols to minimize potential harm to marine mammals that are incidentally taken during the course of fisheries research activities. In general, protocols have already been prepared for use on commercial fishing vessels. Although commercial fisheries take larger quantities of marine mammals than fisheries research, the nature of such takes by entanglement or capture are similar. Therefore, the PIFSC would adopt commercial fishery disentanglement and release protocols (summarized below), which should increase post-release survival. Handling or disentangling marine mammals carries inherent safety risks, and using best professional judgment and ensuring human safety is paramount.

Captured or entangled live or injured marine mammals must be released from research gear and returned to the water as soon as possible with no gear or as little gear remaining on the animal as possible. Animals must be released without removing them from the water if possible, and data collection must be conducted in such a manner as not to delay release of the animal(s) or endanger the crew. PIFSC is responsible for training PIFSC and partner affiliates on how to identify different species; handle and bring marine mammals aboard a vessel; assess the level of consciousness; remove fishing gear; and return marine mammals to water. Human safety is always the paramount concern.

Trawl Survey Visual Monitoring and Operational Protocols

Visual monitoring protocols, described above, are an integral component of trawl mitigation protocols. Observation of marine mammal presence and behaviors in the vicinity of PIFSC trawl survey operations allows for the application of professional judgment in determining

the appropriate course of action to minimize the incidence of marine mammal gear interactions.

The OOD, CS or other designated member of the scientific party, and crew standing watch on the bridge visually scan surrounding waters with the naked eye and rangefinding binoculars (or monocular) for marine mammals prior to, during, and until completion of all trawl operations. Some sets may be made at night or in other limited visibility conditions, when visual observation may be conducted using the naked eye, if vessel lighting is used.

Most research vessels engaged in trawling will have their station in view for 15 minutes or 2 nmi prior to reaching the station, depending upon the sea state and weather. Many vessels will inspect the tow path before deploying the trawl gear, adding another 15 minutes of observation time and gear preparation prior to deployment. Personnel on watch must monitor the station for 30 minutes prior to deploying the trawl. If personnel on watch observe marine mammals, they must immediately alert the OOD and CS as to their best estimate of the species, quantity, distance, bearing, and direction of travel relative to the ship's position. If any marine mammals are sighted around the vessel during the 30-minute pre-deployment monitoring period before setting gear, the vessel must either remain in place and wait to set until no marine mammals are sighted in a further 10-minute observation period, or move away from the animals to a different section of the sampling area if the animals appear to be at risk of interaction with the gear. This is what is referred to as the "move-on" rule.

If marine mammals are observed at or near the station, the CS and the vessel operator will determine the best strategy, consistent with the regulations set forth below, to avoid potential takes based on the species encountered, their numbers and behavior, their position and vector relative to the vessel, and other factors. For instance, a whale transiting through the area and heading away from the vessel may not require any move, or may require only a short move from the initial sampling site, while a pod of dolphins gathered around the vessel may require a longer move from the initial sampling site or possibly cancellation of the station if the dolphins follow the vessel. After moving on, if marine mammals are still visible from the vessel and appear to be at risk, the CS or OOD may decide, in consultation with the vessel operator, to move again or to skip the station. In many cases, the survey design can

accommodate sampling at an alternate site. Gear would not be deployed if marine mammals have been sighted from the ship during the required observation period unless those animals do not appear to be in danger of interactions with the gear, as determined by the judgment of the CS and vessel operator. The efficacy of the "move-on" rule is limited during nighttime or other periods of limited visibility, although operational lighting from the vessel illuminates the water in the immediate vicinity of the vessel during gear setting and retrieval. In these cases, it is again the judgment of the CS or vessel operator as based on experience and in consultation with the vessel operator to exercise due diligence and to decide on appropriate course of action to avoid interactions between marine mammals and sampling gear.

Once the trawl net is in the water, the OOD, CS or other designated scientist, and/or crew standing watch continue to monitor the waters around the vessel and maintain a lookout for marine mammals as environmental conditions allow (as noted previously, visibility can be limited for various reasons). If marine mammals are sighted before the gear is fully retrieved, the OOD, in consultation with the CS and vessel operator as necessary, shall take action informed by professional judgments to avoid taking marine mammals. These judgments take into consideration the species, numbers, and behavior of the animals, the status of the trawl net operation (net opening, depth, and distance from the stern), the time it would take to retrieve the net, and safety considerations for changing speed or course. If marine mammals are sighted during haul-back operations, there is the potential for entanglement during retrieval of the net, especially when the trawl doors have been retrieved and the net is near the surface and no longer under tension. The risk of entanglement may be reduced if the trawling continues and the haul-back is delayed until after the marine mammal has lost interest in the gear or left the area. The appropriate course of action to minimize the risk of incidental take is informed by the professional judgment of the OOD, vessel operator, and the CS based on all circumstances, even if the choices compromise the value of the data collected at the station. The PIFSC must retrieve trawl gear immediately if marine mammals are believed to be captured/entangled in a net, line, or associated gear and follow disentanglement protocols.

We recognize that it is not possible to dictate in advance the exact course of action that the OOD or CS should take

in any given event involving the presence of marine mammals in proximity to an ongoing trawl tow, given the sheer number of potential variables, combinations of variables that may determine the appropriate course of action, and the need to prioritize human safety in the operation of fishing gear at sea. Nevertheless, PIFSC will account for all factors that shape both successful and unsuccessful decisions, and these details will be fed back into PIFSC training efforts and ultimately help to refine the best professional judgment that determines the course of action taken in future scenarios (see further discussion in Monitoring and Reporting).

If trawling operations have been suspended because of the presence of marine mammals, the vessel will resume trawl operations (when practicable) only when the animals are believed to have departed the area. This decision is at the discretion of the OOD/CS and is dependent on the situation. PIFSC shall conduct trawl operations as soon as is practicable upon arrival at the sampling station following visual monitoring pre-deployment. PIFSC shall implement standard survey protocols to minimize potential for marine mammal interactions, including maximum tow durations at target depth and maximum tow distance, and shall carefully empty the trawl as quickly as possible upon retrieval. Standard tow durations for midwater trawls are between 2 and 4 hours as target species (e.g., pelagic stage eteline snappers) are relatively rare, and therefore longer haul times are necessary to acquire the appropriate scientific samples. However, trawl hauls will be terminated and the trawl retrieved upon the determination and professional judgment of the officer on watch, in consultation with the CS or other designated scientist and other experienced crew as necessary, that this action is warranted to avoid an incidental take of a marine mammal.

Longline Survey Visual Monitoring and Operational Protocols

Visual monitoring requirements for all longline surveys are similar to the general protocols described above for trawl surveys. Please see that section for full details of the visual monitoring protocol and the move-on rule mitigation protocol. In summary, requirements for longline surveys are to: (1) conduct visual monitoring prior to arrival on station; (2) implement the move-on rule if marine mammals are observed within the area around the vessel and may be at risk of interacting with the vessel or gear; (3) deploy gear as soon as possible upon arrival on

station (depending on presence of marine mammals); and (4) maintain visual monitoring effort throughout deployment and retrieval of the longline gear. As was described for trawl gear, the OOD, CS, or personnel on watch will use best professional judgment to minimize the risk to marine mammals from potential gear interactions during deployment and retrieval of gear. If marine mammals are detected during setting operations and are considered to be at risk, immediate retrieval or suspension of operations may be warranted. If operations have been suspended because of the presence of marine mammals, the vessel will resume setting (when practicable) only when the animals are believed to have departed the area. If marine mammals are detected during retrieval operations and are considered to be at risk, haul-back may be postponed. The PIFSC must retrieve gear immediately if marine mammals are believed to be captured/entangled in a net, line, or associated gear and follow disentanglement protocols. These decisions are at the discretion of the OOD/CS and are dependent on the situation.

The 1994 amendments to the MMPA tasked NMFS with establishing monitoring programs to estimate mortality and serious injury of marine mammals incidental to commercial fishing operations and to develop Take Reduction Plans (TRPs) in order to reduce commercial fishing takes of strategic stocks of marine mammals below PBR. The False Killer Whale Take Reduction Plan (FKWTRP) was finalized in 2012 to reduce the level of mortality and serious injury of false killer whales in Hawaii-based longline fisheries for tuna and billfish (77 FR 71260, November 29, 2012). Regulatory measures in the FKWTRP include gear requirements, prohibited areas, training and certification in marine mammal handling and release, and posting of NMFS-approved placards on longline vessels. PIFSC does not conduct fisheries and ecosystem research with longline gear within any of the exclusion zones established by the FKWTRP.

Because longline research is currently conducted in conjunction with commercial fisheries, operational characteristics (e.g., branchline and floatline length, hook type and size, bait type, number of hooks between floats) of the longline gear in Hawai'i, American Samoa, Guam, the Commonwealth of the Northern Marianas, or EEZs of the Pacific Insular Areas adhere to the requirements on commercial longline gear based on NMFS regulations

(summarized at <https://www.fisheries.noaa.gov/pacific-islands/resources-fishing/regulation-summaries-and-compliance-guides-pacific-islands> and specified in 50 CFR parts 229, 300, 404, 600, and 665). PIFSC will adhere to the regulations detailed at the link above, and generally follow the following procedures when setting and retrieving longline gear:

- When shallow-setting anywhere and setting longline gear from the stern: Completely thawed and blue-dyed bait will be used (two 1-pound containers of blue-dye will be kept on the boat for backup). Fish parts and spent bait with all hooks removed will be kept for strategic offal discard. Retained swordfish will be cut in half at the head; used heads and livers will also be used for strategic offal discard. Setting will only occur at night and begin 1 hour after local sunset and finish 1 hour before next sunrise, with lighting kept to a minimum.

- When deep-setting north of 23° N and setting longline gear from the stern: 45 gram (g) or heavier weights will be attached within 1 m of each hook. A line shooter will be used to set the mainline. Completely thawed and blue-dyed bait will be used (two 1-pound containers of blue-dye will be kept on the boat for backup). Fish parts and spent bait with all hooks removed will be kept for strategic offal discard. Retained swordfish will be cut in half at the head; used heads and livers will also be used for strategic offal discard.

- When shallow-setting anywhere and setting longline gear from the side: Mainline will be deployed from the port or starboard side at least 1 m forward of the stern corner. If a line shooter is used, it will be mounted at least 1 m forward from the stern corner. A bird curtain will be used aft of the setting station during the set. Gear will be deployed so that hooks do not resurface. 45 g or heavier weights will be attached within 1 m of each hook.

- When deep-setting north of 23° N and setting longline gear from the side: Mainline will be deployed from the port or starboard side at least 1 m forward of the stern corner. If a line shooter is used, it will be mounted at least 1 m forward from the stern corner. A bird curtain will be used aft of the setting station during the set. Gear will be deployed so that hooks do not resurface. 45 g or heavier weights will be attached within 1 m of each hook.

Operational characteristics in non-Western Pacific Regional Fisheries Management Council areas of jurisdiction (i.e., outside of the areas under NMFS jurisdiction named above) adhere to the regulations of the

applicable management agencies. These agencies include the Western and Central Pacific Fisheries Commission (WCPFC), International Commission for the Conservation of Atlantic Tunas (ICCAT), and Inter-American Tropical Tuna Commission (IATTC). These operational characteristics include specifications in WCPFC 2008, WCPFC 2007, ICCAT 2010, ICCAT 2011, IATTC 2011, and IATTC 2007.

Small Boat and Diver Operations

The following measures are carried out by the PIFSC when working in and around shallow water coral reef habitats. These measures are intended to avoid and minimize impacts to marine mammals and other protected species. Transit from the open ocean to shallow-reef survey regions (depths of < 35 m) of atolls and islands is anticipated to be no more than 3 nmi, dependent upon prevailing weather conditions and regulations. Each team conducts surveys and in-water operations with at least two divers observing for the proximity of marine mammals, a coxswain driving the small boat, and a topside spotter working in tandem. Topside spotters may also work as coxswains, depending on team assignment and boat layout. Spotters and coxswains will be tasked with specifically looking out for divers, marine mammals, and environmental hazards.

Before approaching any shoreline or exposed reef, all observers will examine the beach, shoreline, reef areas, and any other visible land areas within the line of sight for marine mammals. Divers, spotters, and coxswains must undertake consistent due diligence and take every precaution during operations to avoid interactions with any marine mammals (e.g., flushing Hawaiian monk seals). Scientists, divers, and coxswains must follow the Best Management Practices (BMPs) for boat operations and diving activities. These practices include but are not limited to the following:

- Constant vigilance shall be kept for the presence of marine mammals;
- When piloting vessels, vessel operators shall alter course to remain at least 100 m from marine mammals;
- Reduce vessel speed to 10 kt or less when piloting vessels within 1 km (as visibility permits) of marine mammals;
- Marine mammals may not be encircled or trapped between multiple vessels or between vessels and the shore;
- If approached by a marine mammal (within 100 yards (91 m) for large whales (*i.e.*, baleen whale or sperm whale) and 50 yards (46 m) for all other marine mammals), put the engine in neutral and allow the animal to pass;

- Unless specifically covered under a separate NMFS research permit that allows activity in proximity to marine mammals, all in-water work, not already underway, will be postponed and must not commence until large whales are beyond 100 yards or other marine mammals are beyond 50 yards;

- Should marine mammals enter the area while in-water work is already in progress, the activity may continue only when that activity has no reasonable expectation to adversely affect the animal(s);

- No feeding, touching, riding, or otherwise intentionally interacting with any marine mammals is permitted unless undertaken to rescue a marine mammal or otherwise authorized by another permit;

- Mechanical equipment will also be monitored to ensure no accidental entanglements occur with protected species (*e.g.*, with passive acoustic monitoring float lines, transect lines, and oceanographic equipment stabilization lines); and

- Team members will immediately respond to an entangled animal, halting operations and providing an onsite response assessment (allowing the animal to disentangle itself, assisting with disentanglement, *etc.*), unless doing so would put divers, coxswains, or other staff at risk of injury or death.

Marine Debris Research and Removal Activities

Land vehicle (trucks) operations will occur in areas of marine debris where vehicle access is possible from highways or rural/dirt roads adjacent to coastal resources. Prior to initiating any marine debris removal operations, marine debris personnel (marine ecosystem specialists) will thoroughly examine the beaches and near shore environments/waters for Hawaiian monk seals before approaching marine debris sites and initiating removal activities. Debris will be retrieved by personnel who are knowledgeable of and act in compliance with all Federal laws, rules and regulations governing wildlife in the Papahānaumokuākea Marine National Monument and MHI. This includes, but is not limited to maintaining a minimum distance of 50 yards (46 m) from all monk seals and a minimum of 100 yards (91 m) from female seals with pups.

Bottomfishing

Although take of marine mammals incidental to use of bottomfishing hook-and-line research gear is not considered likely, PIFSC intends to implement mitigation measures to reduce the risk of potential interactions and to help

improve our understanding of what those risks might be for different species. These efforts will help inform the adaptive management process to determine the appropriate type of mitigation needed for research conducted with bottomfishing gear. PIFSC will implement the following mitigation measures:

- Visual monitoring for marine mammals for at least 30 minutes before gear is set and implementation of the “move-on” rule as described above;

- To avoid attracting any marine mammals to a bottomfishing operation, dead fish and bait will not be discarded from the vessel while actively fishing. Dead fish and bait may be discarded after gear is retrieved and immediately before the vessel leaves the sampling location for a new area;

- If a hooked fish is retrieved and it appears to the fisher that it has been damaged by a monk seal or other marine mammal, then visual monitoring will be enhanced around the vessel for the next 10 minutes. Fishing may continue during this time. If a shark is sighted, then visual monitoring would be returned to normal. If a monk seal, bottlenose dolphin, or other marine mammal is seen in the vicinity of a bottomfishing operation, then the gear would be retrieved immediately and the vessel would be moved to another sampling location where marine mammals are not present. Catch loss would be tallied on the data sheet, as would a “move-on” for a marine mammal; and

- If bottomfishing gear is lost while fishing, then visual monitoring will be enhanced around the vessel for the next 10 minutes. Fishing may continue during this time. If a shark is sighted, then visual monitoring would be returned to normal under the assumption that marine mammals and sharks are unlikely to co-occur. If a monk seal, bottlenose dolphin, or other marine mammal is seen in the vicinity, it would be observed until a determination can be made of whether gear is sighted attached to the animal, gear is suspected to be on the animal (*i.e.*, it demonstrates uncharacteristic behavior such as thrashing), or gear is not observed on the animal and it behaves normally. If a cetacean or monk seal is sighted with the gear attached or suspected to be attached, then the procedures and actions for incidental takes would be initiated (see Monitoring and Reporting). Gear loss would be tallied on the data sheet, as would a “move-on” because of a marine mammal.

Instrument and Trap Deployment

Visual monitoring requirements for instrument and trap deployments are similar to the general protocols described above for trawl and longline surveys. Please see that section for full details of the visual monitoring protocol and the move-on rule mitigation protocol. In summary, requirements for longline surveys are to: (1) conduct visual monitoring prior to arrival on station; (2) implement the move-on rule if marine mammals are observed within the area around the vessel and may be at risk of interacting with the vessel or gear; (3) deploy gear as soon as possible upon arrival on station (depending on presence of marine mammals); and (4) maintain visual monitoring effort throughout deployment and retrieval of the gear. As was described for trawl and longline gear, the OOD, CS, or personnel on watch will use best professional judgment to minimize the risk to marine mammals from potential gear interactions during deployment and retrieval of gear. If marine mammals are detected during setting operations and are considered to be at risk, immediate retrieval or suspension of operations may be warranted. If operations have been suspended because of the presence of marine mammals, the vessel will resume setting (when practicable) only when the animals are believed to have departed the area. If marine mammals are detected during retrieval operations and are considered to be at risk, haul-back may be postponed. PIFSC must retrieve gear and follow disentanglement protocols immediately if marine mammals are believed to be entangled in an instrument or trap line or associated gear. These decisions are at the discretion of the OOD/CS and are dependent on the situation.

In order to minimize the potential risk of entanglement during instrument and trap deployment, PIFSC is evaluating possible modifications to total line length and the relative length of floating line to sinking line used for stationary gear that is deployed from ships or small boats (e.g., stereo-video data collection). A certain amount of extra line (or scope) is needed whenever deploying gear/instruments to the seafloor to prevent currents from moving the gear/instruments off station. If the line is floating line and there is no current then the scope will be floating on the surface. Alternatively, the scope in sinking line may gather below the water surface when currents are slow or absent. Because current speeds vary, there is a need for scope every time that gear is deployed.

Line floating on the surface presents the greatest risk for marine mammal entanglement, especially for humpback whales, because: (1) when marine mammals (e.g., humpback whales) come to the surface to breathe, the floating line is more likely to become caught in their mouths or around their fins; and (2) humpback whales tend to spend most of their time near the surface, generally in the upper 150 m of the water column.

Currently, PIFSC uses only floating line to deploy stationary gear from ships or small boats. Floating line is used in order to maintain the vertical orientation of the line immediately above the instrument on the seafloor. The floating line also helps to keep the line off of the seafloor where it could snag or adversely affect benthic organisms or habitat features.

This mitigation measure would involve the use of sinking line for approximately the top one-third of the line. The other approximately lower two-thirds would still be floating line. This configuration would allow any excess scope in the line to sink to a depth where it would be below where most whales and dolphins commonly occur. Specific line lengths, and ratios of floating line to sinking line, would vary with actual depth and the total line length. This mitigation measure would not preclude the risk of whales or dolphins swimming into the submerged line, but this risk is believed to be lower relative to line floating on the surface.

Based on our evaluation of the PIFSC's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the required 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.

Monitoring and Reporting

In order to issue an incidental take authorization for an activity, section 101(a)(5)(A) 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) require that requests for incidental take 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 activities.

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 specified geographical region (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 action; 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;
- How 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.

PIFSC shall designate a compliance coordinator who shall be responsible for ensuring compliance with all requirements of any LOA issued pursuant to these regulations and for preparing for any subsequent request(s) for incidental take authorization.

The monitoring requirements are as follows:

Visual Monitoring

Marine mammal watches are a standard part of conducting fisheries research activities, and are implemented as described previously in the Mitigation section. Dedicated marine mammal visual monitoring occurs as described (1) for some period prior to deployment of most research gear; (2) throughout deployment and active fishing of all research gears; (3) for some period prior to retrieval of longline gear; and (4) throughout retrieval of all research gear. This visual monitoring is performed by trained PIFSC personnel or other trained crew during the monitoring period. Observers record the species and estimated number of animals present and their behaviors.

This may provide valuable information towards an understanding of whether certain species may be attracted to vessels or certain survey gears. Separately, personnel on watch (those navigating the vessel and other crew; these will typically not be PIFSC personnel) monitor for marine mammals at all times while the vessel is being operated. The primary focus for this type of watch is to avoid striking marine mammals and avoid navigational hazards. These personnel on watch typically have other duties associated with navigation and other vessel operations and are not required to record or report to the scientific party data on marine mammal sightings, except when gear is being deployed, soaking, or retrieved or when marine mammals are observed in the path of the ship during transit.

PIFSC will also monitor disturbance of hauled out pinnipeds resulting from the presence of researchers, paying particular attention to the distance at which pinnipeds are disturbed. Disturbance will be recorded according to the three-point scale, representing increasing seal response to disturbance, shown in table 14.

Training

NMFS considers the required suite of monitoring and operational procedures to be necessary to avoid adverse interactions with protected species and still allow PIFSC to fulfill its scientific missions. However, some mitigation measures such as the move-on rule require judgments about the risk of gear interactions with protected species and the best procedures for minimizing that risk on a case-by-case basis. Vessel operators and CSs are charged with making those judgments at sea. They are all highly experienced professionals but there may be inconsistencies across the range of research surveys conducted and funded by PIFSC in how those judgments are made. In addition, some of the mitigation measures described above could also be considered “best practices” for safe seamanship and avoidance of hazards during fishing (e.g., prior surveillance of a sample site before setting trawl gear). At least for some of the research activities considered, explicit links between the implementation of these best practices and their usefulness as mitigation measures for avoidance of protected species may not have been formalized and clearly communicated with all scientific parties and vessel operators. NMFS therefore includes a series of improvements to PIFSC protected species training, awareness, and reporting procedures. NMFS expects

these new procedures will facilitate and improve the implementation of the mitigation measures described above.

PIFSC will initiate a process for its CSs and vessel operators to communicate with each other about their experiences with marine mammal interactions during research work with the goal of improving decision-making regarding avoidance of adverse interactions. As noted above, there are many situations where professional judgment is used to decide the best course of action for avoiding marine mammal interactions before and during the time research gear is in the water. The intent of this mitigation measure is to draw on the collective experience of people who have been making those decisions, provide a forum for the exchange of information about what went right and what went wrong, and try to determine if there are any rules-of-thumb or key factors to consider that would help in future decisions regarding avoidance practices. PIFSC would coordinate not only among its staff and vessel captains but also with those from other fisheries science centers and institutions with similar experience.

PIFSC would also develop a formalized marine mammal training program required for all PIFSC research projects and for all crew members that may be posted on monitoring duty or handle incidentally caught marine mammals. Training programs would be conducted on a regular basis and would include topics such as monitoring and sighting protocols, species identification, decision-making factors for avoiding take, procedures for handling and documenting marine mammals caught in research gear, and reporting requirements. PIFSC will work with the Pacific Islands commercial fisheries Observer Program to customize a new marine mammal training program for researchers and ship crew. The Observer Program currently provides protected species training (and other types of training) for NMFS-certified observers placed on board commercial fishing vessels. PIFSC CSs and appropriate members of PIFSC research crews will be trained using similar monitoring, data collection, and reporting protocols for marine mammal as is required by the Observer Program. All PIFSC research crew members that may be assigned to monitor for the presence of marine mammals during future surveys will be required to attend an initial training course and refresher courses annually or as necessary. The implementation of this training program would formalize and standardize the information provided to all research

crew that might experience marine mammal interactions during research activities.

For all PIFSC research projects and vessels, written cruise instructions and protocols for avoiding adverse interactions with marine mammals will be reviewed and, if found insufficient, made fully consistent with the Observer Program training materials and any guidance on decision-making that arises out of the two training opportunities described above. In addition, informational placards and reporting procedures will be reviewed and updated as necessary for consistency and accuracy. All PIFSC research cruises already include pre-sail review of marine mammal protocols for affected crew but PIFSC will also review its briefing instructions for consistency and accuracy.

Following the first year of implementation of the LOA, PIFSC will convene a workshop with Pacific Islands Regional Office (PIRO) Protected Resources Division, PIFSC fishery scientists, NOAA research vessel personnel, and other NMFS staff as appropriate to review data collection, marine mammal interactions, and refine data collection and mitigation protocols, as required. PIFSC will also coordinate with NMFS’ Office of Science and Technology to ensure training and guidance related to handling procedures and data collection is consistent with other fishery science centers, where appropriate.

Handling Procedures and Data Collection

PIFSC must develop and implement standardized marine mammal handling, disentangle, and data collection procedures. These standard procedures will be subject to approval by NMFS OPR. Improved standardization of handling procedures were discussed previously in the Mitigation section. In addition to improving marine mammal survival post-release, PIFSC believes adopting these protocols for data collection will also increase the information on which “serious injury” determinations (NMFS, 2012a; 2012b) are based, improve scientific knowledge about marine mammals that interact with fisheries research gear, and increase understanding of the factors that contribute to these interactions. PIFSC personnel will receive standard guidance and training on handling marine mammals, including how to identify different species, bring an individual aboard a vessel, assess the level of consciousness, remove fishing gear, return an individual to the water,

and record activities pertaining to the interaction.

PIFSC will record interaction information on their own standardized forms. To aid in serious injury determinations and comply with the current NMFS Serious Injury Guidelines, researchers will also answer a series of supplemental questions on the details of marine mammal interactions.

Finally, for any marine mammals that are killed during fisheries research activities, scientists will collect data and samples pursuant to appendix D of the PIFSC Draft Environmental Assessment, "Protected Species Mitigation and Handling Procedures for PIFSC Fisheries Research Vessels."

Reporting

As is normally the case, PIFSC will coordinate with the relevant stranding coordinators for any unusual marine mammal behavior and any stranding, beached live/dead, or floating marine mammals that are encountered during field research activities. The PIFSC will follow a phased approach with regard to the cessation of its activities and/or reporting of such events, as described in the regulatory text following this preamble. In addition, CSs (or vessel operators) will provide reports to PIFSC leadership and to OPR. As a result, when marine mammals interact with survey gear, whether killed or released alive, a report provided by the CS will fully describe any observations of the animals, the context (vessel and conditions), decisions made and rationale for decisions made in vessel and gear handling. The circumstances of these events are critical in enabling PIFSC and OPR to better evaluate the conditions under which takes are most likely to occur. We believe in the long term this will allow the avoidance of these types of events in the future.

The PIFSC will submit annual summary reports to OPR including:

(1) Annual line-kilometers surveyed during which the EK60, EM 300, and ADCP Ocean Surveyor (or equivalent sources) were predominant (see *Estimated Take Due to Acoustic Harassment* for further discussion), specific to each region;

(2) Summary information regarding use of all longline and trawl gear, including number of sets, tows, *etc.*, specific to each research area and gear;

(3) Accounts of surveys where marine mammals were observed during sampling but no interactions occurred;

(4) Accounts of all incidents of marine mammal interactions, including circumstances of the event and descriptions of any mitigation

procedures implemented or not implemented and why;

(5) Summary information related to any disturbance of pinnipeds, including event-specific total counts of animals present, counts of reactions according to the three-point scale shown in table 14, and distance of closest approach;

(6) A written description of any mitigation research investigation efforts and findings (*e.g.*, line modifications);

(7) A written evaluation of the effectiveness of PIFSC mitigation strategies in reducing the number of marine mammal interactions with survey gear, including best professional judgment and suggestions for changes to the mitigation strategies, if any; and

(8) Details on marine mammal-related training taken by PIFSC and partner affiliates.

The period of reporting will be annually. The first annual report must cover the period from the date of issuance of the LOA through the end of that calendar year and the entire first full calendar year of the authorization. Subsequent reports would cover only 1 full calendar year. Each annual report must be submitted not less than 90 days following the end of a given year. PIFSC shall provide a final report within 30 days following resolution of comments on the draft report. Submission of this information serves an adaptive management framework function by allowing NMFS to make appropriate modifications to mitigation and/or monitoring strategies, as necessary, during the 5-year period of validity for these regulations.

NMFS has established a formal incidental take reporting system, the Protected Species Incidental Take (PSIT) database, requiring that incidental takes of protected species be reported within 48 hours of the occurrence. The PSIT generates automated messages to NMFS leadership and other relevant staff, alerting them to the event and to the fact that updated information describing the circumstances of the event has been inputted to the database. The PSIT and CS reports represent not only valuable real-time reporting and information dissemination tools but also serve as an archive of information that may be mined in the future to study why takes occur by species, gear, region, *etc.* The PIFSC is required to report all takes of protected species, including marine mammals, to this database within 48 hours of the occurrence and following standard protocol.

In the unanticipated event that PIFSC fisheries research activities cause the take of a marine mammal in a prohibited manner, PIFSC personnel

engaged in the research activity shall immediately cease such activity until such time as an appropriate decision regarding activity continuation can be made by the PIFSC Director (or designee). The incident must be reported immediately to OPR and the NMFS Pacific Islands Regional Office. OPR will review the circumstances of the prohibited take and work with PIFSC to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The immediate decision made by PIFSC regarding continuation of the specified activity is subject to OPR concurrence. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident including, but not limited to, monitoring prior to and occurring at time of the incident;

(iii) Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility);

(iv) Description of all marine mammal observations in the 24 hours preceding the incident;

(v) Species identification or description of the animal(s) involved;

(vi) Status of all sound source use in the 24 hours preceding the incident;

(vii) Water depth;

(viii) Fate of the animal(s) (*e.g.* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, *etc.*); and

(ix) Photographs or video footage of the animal(s).

In the event that PIFSC discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), PIFSC shall immediately report the incident to OPR and PIRO. The report must include the information identified above.

Activities may continue while OPR reviews the circumstances of the incident. OPR will work with PIFSC to determine whether additional mitigation measures or modifications to the activities are appropriate.

In the event that PIFSC discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to PIFSC fisheries research activities (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), PIFSC shall report the incident to OPR and the Pacific Islands Regional Office, NMFS, within 24 hours of the discovery. PIFSC shall provide photographs or video footage or other

documentation of the stranded animal sighting to OPR.

In the event of a ship strike of a marine mammal by any PIFSC or partner vessel involved in the activities covered by the authorization, PIFSC or partner shall immediately report the information described above, as well as the following additional information:

- (i) Vessel's speed during and leading up to the incident;
- (ii) Vessel's course/heading and what operations were being conducted;
- (iii) Status of all sound sources in use;
- (iv) Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- (v) Estimated size and length of animal that was struck; and
- (vi) Description of the behavior of the marine mammal immediately preceding and following the strike.

PIFSC will also collect and report all necessary data, to the extent practicable given the primacy of human safety and the well-being of captured or entangled marine mammals, to facilitate serious injury (SI) determinations for marine mammals that are released alive. PIFSC will require that the CS complete data forms and address supplemental questions, both of which have been developed to aid in SI determinations. PIFSC understands the critical need to provide as much relevant information as possible about marine mammal interactions to inform decisions regarding SI determinations. In addition, the PIFSC will perform all necessary reporting to ensure that any incidental M/SI is incorporated as appropriate into relevant SARs.

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" by mortality, serious injury, and Level A or Level B harassment, we consider other factors, such as the likely nature of any behavioral responses (*e.g.*, intensity, duration), the context of any

such responses (*e.g.*, critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of 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's 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 environmental 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, and specific consideration of take by M/SI previously authorized for other NMFS research activities).

Serious Injury and Mortality

We note here that the takes from potential gear interactions enumerated below could result in non-serious injury, but their worse potential outcome (mortality) is analyzed for the purposes of the negligible impact determination.

In addition, we discuss here the connection, and differences, between the legal mechanisms for authorizing incidental take under section 101(a)(5) for activities such as those planned by PIFSC, and for authorizing incidental take from commercial fisheries. In 1988, Congress amended the MMPA's provisions for addressing incidental take of marine mammals in commercial fishing operations. Congress directed NMFS to develop and recommend a new long-term regime to govern such incidental taking (see MMC, 1994). The need to develop a system suited to the unique circumstances of commercial fishing operations led NMFS to suggest a new conceptual means and associated regulatory framework. That concept, PBR, and a system for developing plans containing regulatory and voluntary measures to reduce incidental take for fisheries that exceed PBR were incorporated as sections 117 and 118 in the 1994 amendments to the MMPA. In *Conservation Council for Hawaii v. National Marine Fisheries Service*, 97 F. Supp. 3d 1210 (D. Haw. 2015), which concerned a challenge to NMFS' regulations and LOAs to the Navy for activities assessed in the 2013–2018 U.S. Navy Hawaii-Southern California Training and Testing (HSTT) MMPA rulemaking, the Court ruled that NMFS' failure to consider PBR when evaluating lethal takes in the negligible impact analysis under section 101(a)(5)(A)

violated the requirement to use the best available science.

PBR is defined in section 3 of the MMPA as "the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population" (OSP) and, although not controlling, can be one measure considered among other factors when evaluating the effects of M/SI on a marine mammal species or stock during the section 101(a)(5)(A) process. OSP is defined in section 3 of the MMPA as "the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element." An overarching goal of the MMPA is to ensure that each species or stock of marine mammal is maintained at or returned to its OSP.

PBR values are calculated by NMFS as the level of annual removal from a stock that will allow that stock to equilibrate within OSP at least 95 percent of the time, and is the product of factors relating to the minimum population estimate of the stock (N_{min}), the productivity rate of the stock at a small population size, and a recovery factor. Determination of appropriate values for these three elements incorporates significant precaution, such that application of the parameter to the management of marine mammal stocks may be reasonably certain to achieve the goals of the MMPA. For example, calculation of the minimum population estimate (N_{min}) incorporates the level of precision and degree of variability associated with abundance information, while also providing reasonable assurance that the stock size is equal to or greater than the estimate (Barlow *et al.*, 1995), typically by using the 20th percentile of a log-normal distribution of the population estimate. In general, the three factors are developed on a stock-specific basis in consideration of one another in order to produce conservative PBR values that appropriately account for both imprecision that may be estimated, as well as potential bias stemming from lack of knowledge (Wade, 1998).

Congress called for PBR to be applied within the management framework for commercial fishing incidental take under section 118 of the MMPA. As a result, PBR cannot be applied appropriately outside of the section 118 regulatory framework without consideration of how it applies within the section 118 framework, as well as how the other statutory management

frameworks in the MMPA differ from the framework in section 118. PBR was not designed and is not used as an absolute threshold limiting commercial fisheries. Rather, it serves as a means to evaluate the relative impacts of those activities on marine mammal stocks. Even where commercial fishing is causing M/SI at levels that exceed PBR, the fishery is not suspended. When M/SI exceeds PBR in the commercial fishing context under section 118, NMFS may develop a take reduction plan, usually with the assistance of a take reduction team. The take reduction plan will include measures to reduce and/or minimize the taking of marine mammals by commercial fisheries to a level below the stock's PBR. That is, where the total annual human-caused M/SI exceeds PBR, NMFS is not required to halt fishing activities contributing to total M/SI but rather utilizes the take reduction process to further mitigate the effects of fishery activities via additional bycatch reduction measures. In other words, under section 118 of the MMPA, PBR does not serve as a strict cap on the operation of commercial fisheries that may incidentally take marine mammals.

Similarly, to the extent PBR may be relevant when considering the impacts of incidental take from activities other than commercial fisheries, using it as the sole reason to deny (or issue) incidental take authorization for those activities would be inconsistent with Congress's intent under section 101(a)(5), NMFS' long-standing regulatory definition of "negligible impact," and the use of PBR under section 118. The standard for authorizing incidental take for activities other than commercial fisheries under section 101(a)(5) continues to be, among other things that are not related to PBR, whether the total taking will have a negligible impact on the species or stock. Nowhere does section 101(a)(5)(A) reference use of PBR to make the negligible impact finding or to authorize incidental take through multi-year regulations, nor does its companion provision at section 101(a)(5)(D) for authorizing non-lethal incidental take under the same negligible-impact standard. NMFS' MMPA implementing regulations state that take has a negligible impact when it does not "adversely affect the species or stock through effects on annual rates of recruitment or survival"—likewise without reference to PBR. When Congress amended the MMPA in 1994 to add section 118 for commercial fishing, it did not alter the standards for authorizing non-commercial fishing

incidental take under section 101(a)(5), implicitly acknowledging that the negligible impact standard under section 101(a)(5) is separate from the PBR metric under section 118. In fact, in 1994 Congress also amended section 101(a)(5)(E) (a separate provision governing commercial fishing incidental take for species listed under the ESA) to add compliance with the new section 118 but retained the standard of the negligible impact finding under section 101(a)(5)(A) (and section 101(a)(5)(D)), showing that Congress understood that the determination of negligible impact and the application of PBR may share certain features but are, in fact, different.

Since the introduction of PBR in 1994, NMFS had used the concept almost entirely within the context of implementing sections 117 and 118 and other commercial fisheries management-related provisions of the MMPA. Prior to the Court's ruling in *Conservation Council for Hawaii v. National Marine Fisheries Service* and consideration of PBR in a series of section 101(a)(5) rulemakings, there were a few examples where PBR had informed agency deliberations under other MMPA sections and programs, such as playing a role in the issuance of a few scientific research permits and subsistence takings. But as a different court found when reviewing examples of past PBR consideration in *Georgia Aquarium v. Pritzker*, 135 F. Supp. 3d 1280 (N.D. Ga. 2015), where NMFS had considered PBR outside the commercial fisheries context, "it has treated PBR as only one 'quantitative tool' and [has not used it] as the sole basis for its impact analyses." Further, the agency's thoughts regarding the appropriate role of PBR in relation to MMPA programs outside the commercial fishing context have evolved since the agency's early application of PBR to section 101(a)(5) decisions. Specifically, NMFS' denial of a request for incidental take authorization for the U.S. Coast Guard in 1996 seemingly was based on the potential for lethal take in relation to PBR and did not appear to consider other factors that might also have informed the potential for ship strike in relation to negligible impact (61 FR 54157, October 17, 1996).

The MMPA requires that PBR be estimated in SARs and that it be used in applications related to the management of take incidental to commercial fisheries (*i.e.*, the take reduction planning process described in section 118 of the MMPA and the determination of whether a stock is "strategic" as defined in section 3), but nothing in the statute requires the

application of PBR outside the management of commercial fisheries interactions with marine mammals. Nonetheless, NMFS recognizes that as a quantitative metric, PBR may be useful as a consideration when evaluating the impacts of other human-caused activities on marine mammal stocks. Outside the commercial fishing context, and in consideration of all known human-caused mortality, PBR can help inform the potential effects of M/SI requested to be authorized under section 101(a)(5)(A). As noted by NMFS and the U.S. Fish and Wildlife Service in our implementing regulations for the 1986 amendments to the MMPA (54 FR 40341, September 29, 1989), the Services consider many factors, when available, in making a negligible impact determination, including, but not limited to, the status of the species or stock relative to OSP (if known); whether the recruitment rate for the species or stock is increasing, decreasing, stable, or unknown; the size and distribution of the population; and existing impacts and environmental conditions. In this multi-factor analysis, PBR can be a useful indicator for when, and to what extent, the agency should take an especially close look at the circumstances associated with the potential mortality, along with any other factors that could influence annual rates of recruitment or survival.

When considering PBR during evaluation of effects of M/SI under section 101(a)(5)(A), we first calculate a metric for each species or stock that incorporates information regarding ongoing anthropogenic M/SI from all sources into the PBR value (*i.e.*, PBR minus the total annual anthropogenic mortality/serious injury estimate in the SAR), which is called "residual PBR" (Wood *et al.*, 2012). We first focus our analysis on residual PBR because it incorporates anthropogenic mortality occurring from other sources. If the ongoing human-caused mortality from other sources does not exceed PBR, then residual PBR is a positive number, and we consider how the anticipated or potential incidental M/SI from the activities being evaluated compares to residual PBR using the framework in the following paragraph. If the ongoing anthropogenic mortality from other sources already exceeds PBR, then residual PBR is a negative number and we consider the M/SI from the activities being evaluated as described further below.

When ongoing total anthropogenic mortality from the applicant's specified activities does not exceed PBR and residual PBR is a positive number, as a simplifying analytical tool we first

consider whether the specified activities could cause incidental M/SI that is less than 10 percent of residual PBR (the “insignificance threshold,” see below). If so, we consider M/SI from the specified activities to represent an insignificant incremental increase in ongoing anthropogenic M/SI for the marine mammal stock in question that alone (*i.e.*, in the absence of any other take) will not adversely affect annual rates of recruitment and survival. As such, this amount of M/SI would not be expected to affect rates of recruitment or survival in a manner resulting in more than a negligible impact on the affected stock unless there are other factors that could affect reproduction or survival, such as Level A and/or Level B harassment, or other considerations such as information that illustrates uncertainty involved in the calculation of PBR for some stocks. In a few prior incidental take rulemakings, this threshold was identified as the “significance threshold,” but it is more accurately labeled an insignificance threshold, and so we use that terminology here, as we did in the U.S. Navy’s Atlantic Fleet Training and Testing (AFTT) final rule (83 FR 57076, November 14, 2018), and 2-year rule extension (84 FR 70712, December 23, 2019), as well as the U.S. Navy’s HSTT final rule (83 FR 66846, December 27, 2018) and 2-year rule extension (85 FR 41780, July 10, 2020). Assuming that any additional incidental take by Level B harassment from the activities in question would not combine with the effects of the authorized M/SI to exceed the negligible impact level, the anticipated M/SI caused by the activities being evaluated would have a negligible impact on the species or stock. However, M/SI above the 10 percent insignificance threshold does not indicate that the M/SI associated with the specified activities is approaching a level that would necessarily exceed negligible impact. Rather, the 10 percent insignificance threshold is meant only to identify instances where additional analysis of the anticipated M/SI is not required because the negligible impact standard clearly will not be exceeded on that basis alone.

Where the anticipated M/SI is near, at, or above residual PBR, consideration of other factors (positive or negative), including those outlined above, as well as mitigation is especially important to assessing whether the M/SI will have a negligible impact on the species or stock. PBR is a conservative metric and not sufficiently precise to serve as an absolute predictor of population effects

upon which mortality caps would appropriately be based. For example, in some cases stock abundance (which is one of three key inputs into the PBR calculation) is underestimated because marine mammal survey data within the U.S. EEZ are used to calculate the abundance even when the stock range extends well beyond the U.S. EEZ. An underestimate of abundance could result in an underestimate of PBR. Alternatively, we sometimes may not have complete M/SI data beyond the U.S. EEZ to compare to PBR, which could result in an overestimate of residual PBR. The accuracy and certainty around the data that feed any PBR calculation, such as the abundance estimates, must be carefully considered to evaluate whether the calculated PBR accurately reflects the circumstances of the particular stock. M/SI that exceeds residual PBR or PBR may still potentially be found to be negligible in light of other factors that offset concern, especially when robust mitigation and adaptive management provisions are included.

In *Conservation Council for Hawaii v. National Marine Fisheries Service*, which involved the challenge to NMFS’ issuance of LOAs to the Navy in 2013 for activities in the HSTT Study Area, the Court reached a different conclusion, stating, “Because any mortality level that exceeds PBR will not allow the stock to reach or maintain its OSP, such a mortality level could not be said to have only a ‘negligible impact’ on the stock.” As described above, NMFS respectfully maintains that this statement fundamentally misunderstands the two terms and incorrectly indicates that these concepts (PBR and “negligible impact”) are directly connected, when in fact nowhere in the MMPA is it indicated that these two terms are equivalent. Moreover, this statement is not precedential, and other caselaw recognizes that PBR and “negligible impact” are analytically distinct. *E.g.*, *Melone v. Coit*, 100 F.4th 21, 31 (1st Cir. 2024).

Specifically, PBR was designed as a tool for evaluating mortality and is defined as the number of animals that can be removed while “allowing that stock to reach or maintain its [OSP].” OSP describes a population that falls within a range from the population level that is the largest supportable within the ecosystem to the population level that results in maximum net productivity, and thus is an aspirational management goal of the overall statute with no specific timeframe by which it should be met. PBR is designed to ensure minimal deviation from this overarching

goal, with the formula for PBR typically ensuring that growth towards OSP is not reduced by more than 10 percent (or equilibrates to OSP 95 percent of the time). Given that, as applied by NMFS, PBR certainly allows a stock to “reach or maintain its [OSP]” in a conservative and precautionary manner—and we can therefore clearly conclude that if PBR were not exceeded, there would not be adverse effects on the affected species or stocks. Nonetheless, it is equally clear that in some cases the time to reach this aspirational OSP level could be slowed by more than 10 percent (*i.e.*, total human-caused mortality in excess of PBR could be allowed) without adversely affecting a species or stock through effects on its rates of recruitment or survival. Thus even in situations where the inputs to calculate PBR are thought to accurately represent factors such as the species’ or stock’s abundance or productivity rate, it is still possible for incidental take to have a negligible impact on the species or stock even where M/SI exceeds residual PBR or PBR.

As discussed above, while PBR is useful in informing the evaluation of the effects of M/SI in section 101(a)(5)(A) determinations, it is just one consideration to be assessed in combination with other factors and is not determinative. For example, as explained above, the accuracy and certainty of the data used to calculate PBR for the species or stock must be considered. And we reiterate the considerations discussed above for why it is not appropriate to consider PBR an absolute cap in the application of this guidance. Accordingly, we use PBR as a trigger for concern while also considering other relevant factors to provide a reasonable and appropriate means of evaluating the effects of potential mortality on rates of recruitment and survival, while acknowledging that it is possible to exceed PBR (or exceed 10 percent of PBR in the case where other human-caused mortality is exceeding PBR but the specified activity being evaluated is an incremental contributor, as described in the last paragraph) by some small amount and still make a negligible impact determination under section 101(a)(5)(A).

We note that on June 17, 2020, NMFS finalized new Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E). The guidance explicitly notes the differences in the negligible impact determinations required under section 101(a)(5)(E), as compared to sections 101(a)(5)(A) and 101(a)(5)(D), and specifies that the procedure in that document is limited to how the agency

conducts negligible impact analyses for commercial fisheries under section 101(a)(5)(E). In the proposed rule (86 FR 15298, March 22, 2021) (and above), NMFS has described its method for considering PBR to evaluate the effects of potential mortality in the negligible impact analysis. NMFS has reviewed the 2020 guidance and determined that our consideration of PBR in the evaluation of mortality as described above and in the proposed rule remains appropriate for use in the negligible impact analysis for the PIFSC's fisheries research activities under section 101(a)(5)(A).

Our evaluation of the M/SI for each of the species and stocks for which mortality could occur follows. By considering the maximum potential incidental M/SI in relation to PBR and ongoing sources of anthropogenic mortality, we begin our evaluation of whether the potential incremental addition of M/SI through PIFSC research activities may affect the species' or stock's annual rates of recruitment or survival. We also

consider the interaction of those mortalities with incidental taking of that species or stock by harassment pursuant to the specified activity (see *Harassment* section below).

We have authorized take by M/SI over the 5-year period of validity for these regulations as indicated in table 15 below. For the purposes of the negligible impact analysis, we assume that all takes from gear interaction could potentially be in the form of M/SI.

We previously authorized the take by M/SI of marine mammals incidental to fisheries research operations conducted by the SWFSC (see 80 FR 58981 and 80 FR 68512), the NWFSC (see 83 FR 36370 and 83 FR 47135), and the Alaska Fisheries Science Center (AFSC) (see 84 FR 46788 and 84 FR 54893). However, this take would not occur to the same stocks for which we have authorized take incidental to PIFSC fisheries research operations; therefore, we do not consider M/SI takes from other science center activities. The final rule for the U.S. Navy's HSTT also authorized take of the Hawai'i stock of

sperm whales by M/SI. Therefore, that authorized take by the Navy has been considered in this assessment. As used in this document, other ongoing sources of human-caused (anthropogenic) mortality refers to estimates of realized or actual annual mortality reported in the SARs and does not include authorized (but unrealized) or unknown mortality. Below, we consider the total taking by M/SI authorized for PIFSC to produce a maximum annual M/SI take level (including take of unidentified marine mammals that could accrue to any relevant stock) and compare that value to the stock's PBR value, considering ongoing sources of anthropogenic mortality (as described in footnote 4 of table 15 and in the following discussion). PBR and annual M/SI values considered in table 15 reflect the most recent information available (*i.e.*, draft 2023 SARs). In the *Harassment* section below, we consider the interaction of those mortalities with incidental taking of that species or stock by harassment pursuant to the specified activity.

TABLE 15—SUMMARY INFORMATION RELATED TO PIFSC AUTHORIZED ANNUAL TAKE BY MORTALITY OR SERIOUS INJURY AUTHORIZATION, 2025–2030

Species	Stock	Stock abundance	Authorized PIFSC M/SI take (annual) ^{1 2}	Stock PBR	Stock annual M/SI	U.S. Navy HSTT authorized take by M/SI	r-PBR (PBR-stock annual M/SI) ³	Authorized M/SI take/r-PBR (%)
Blainville's beaked whale	Hawai'i	1,132	0.2	5.6	0	0	5.6	3.6
Cuvier's Beaked whale	Hawai'i Pelagic	4,431	0.2	32	0	0	32	0.6
Bottlenose dolphin	Hawai'i Pelagic	24,669	0.6	158	0	0	158	0.4
Bottlenose dolphin ⁴	All stocks except Hawai'i Pelagic.	N/A	0.4	N/A	N/A	0	N/A	N/A
False killer whale ⁵	Hawai'i Pelagic or unspecified.	5,528	0.2	33	47	0	– 14	N/A
Humpback whale	Hawai'i	11,278	0.4	127	27.1	0	99.9	0.4
<i>Kogia</i> spp. ⁸	Hawai'i	42,083	0.2	257	0	0	257	0.1
Pantropical spotted dolphin ⁶	all stocks	67,313	0.6	538	0	0	538	0.1
Pygmy killer whale	Hawai'i	10,328	0.2	59	0	0	59	0.3
Risso's dolphin	Hawai'i	6,979	0.2	53	0	0	53	0.4
Rough-toothed dolphin	Hawai'i	83,915	0.6	511	3.2	0	507.8	0.1
Rough-toothed dolphin	All stocks except Hawai'i	N/A	0.4	N/A	N/A	0	N/A	N/A
Short-finned pilot whale	Hawai'i	19,242	0.2	159	0.2	0	158.8	0.1
Sperm whale	Hawai'i	5,707	0.2	18	0	0.14	17.9	1.1
Spinner dolphin ⁷	All stocks	665	0.4	6.2	1.0	0	5.2	7.7
Striped dolphin	All stocks	64,343	0.4	511	0	0	511	0.1

Please see table 5 and preceding text for details on estimated take by M/SI.

¹ As explained earlier in this document, gear interaction could result in mortality, serious injury, or Level A harassment. Because we do not have sufficient information to enable us to parse out these outcomes, we present such take as a pool. For purposes of this negligible impact analysis we assume a scenario in which all such takes incidental to research activities result in mortality.

² This column represents the total number of incidents of M/SI that could potentially accrue to the specified species or stock as a result of NMFS's fisheries research activities and is the number carried forward for evaluation in the negligible impact analysis. The take authorization is formulated as a 5-year total; the annual average is used only for purposes of negligible impact analysis. We recognize that portions of an animal may not be taken in a given year.

³ This value represents the calculated PBR less the average annual estimate of ongoing anthropogenic mortalities (*i.e.*, total annual human-caused M/SI, which is presented in the SARs) (see table 2). For some stocks, a minimum population abundance value (and therefore PBR) is unavailable. In these cases, the proportion of estimated population abundance represented by the Level B harassment total and/or the proportion of residual PBR represented by the estimated maximum annual M/SI cannot be calculated.

⁴ PBR known for Kauai and Ni'ihau and Hawaiian Islands stocks but a total PBR for multiple stocks cannot be determined.

⁵ PIFSC fisheries and ecosystem research would not occur within the ranges of other specified false killer whale stocks. "Unspecified stock" only occurs on the high seas.

⁶ Stock abundance and PBR presented only for Hawai'i Pelagic stock, which is the only stock with estimates of population and PBR.

⁷ Stock abundance and PBR presented only for Hawai'i Island stock, which is the only stock with estimates of population and PBR.

⁸ Stock data presented for pygmy sperm whale only; no data are available for dwarf sperm whale.

The majority of stocks that may potentially be taken by M/SI (13 of 14 stocks for which PBR values exist) fall

below the insignificance threshold (*i.e.*, 10 percent of residual PBR). An additional two stocks do not have

current PBR values and therefore are evaluated using other factors which are discussed later.

In this section, we first consider stocks for which the authorized M/SI falls below the insignificance threshold. Next, we consider those stocks without PBR values or known annual M/SI (bottlenose dolphin (all stocks except Hawai'i Pelagic) and rough-toothed dolphin (all stocks except Hawai'i)), as well as Hawai'i Pelagic false killer whales, which is the only stock for which annual M/SI exceeds the PBR value.

Stocks With M/SI Below the Insignificance Threshold

As noted above, for a species or stock with incidental M/SI less than 10 percent of residual PBR, we consider M/SI from the specified activities to represent an insignificant incremental increase in ongoing anthropogenic M/SI that alone (*i.e.*, in the absence of any other take and barring any other unusual circumstances) will clearly not adversely affect annual rates of recruitment and survival. In this case, as shown in table 15, the following species or stocks have authorized M/SI from PIFSC fisheries research below their insignificance threshold: Blainville's beaked whale (Hawai'i stock), Cuvier's beaked whale (Hawai'i pelagic stock), bottlenose dolphin (Hawai'i pelagic stock), humpback whale (Hawai'i stock), *Kogia* sp. (Hawaii stocks) pantropical spotted dolphin (all stocks), pygmy killer whale (Hawai'i stock), Risso's dolphin (Hawai'i stock), rough-toothed dolphin (Hawai'i stock), short-finned pilot whale (Hawai'i stock), sperm whale (Hawai'i stock), spinner dolphin (all stocks), and striped dolphin (all stocks).

For these stocks with authorized M/SI below the insignificance threshold, there are no other known factors, information, or unusual circumstances that indicate anticipated M/SI below the insignificance threshold could have adverse effects on annual rates of recruitment or survival and they are not discussed further.

Stocks With Undetermined PBR or M/SI

The Kauai/Ni'ihau, Oahu, Maui Nui (4-Islands), and Hawai'i Island stocks of bottlenose dolphins (Hawai'i Islands stock complex) were most recently assessed in the draft 2023 SARs. PBR was calculated for all four of these stocks, with values ranging from 0.6 for the Maui Nui stock to 1.0 for the Oahu and Hawai'i Island stocks. However, annual M/SI estimates are considered unknown for all four stocks (but a minimum of 0.2 for the Hawai'i Island stock), as there is no systematic monitoring of takes in nearshore fisheries that may take this species.

Assuming zero annual stock M/SI (0.2 for the Hawai'i Island stock), as no other information is available, the residual PBR for each stock is equal to the PBR value for each stock, *i.e.*, 0.9 animals per year for the Kauai/Ni'ihau stock, 1.0 for the Oahu stock, 0.6 for the Maui Nui stock, and 0.8 for the Hawai'i Island stock (PBR value of 1.0 minus the minimum annual M/SI of 0.2). PIFSC cannot predict which specific stock of bottlenose dolphins may be taken by M/SI. Assuming the authorized annual average take by M/SI incidental to PIFSC fisheries research activities (0.4 per year) occurs within each stock, the take is above the insignificance threshold (*i.e.*, 10 percent of residual PBR) for all stocks. We consider qualitative information such as population dynamics and context to determine if the authorized amount of bottlenose dolphin takes from these stocks would have a negligible impact on annual rates of survival and recruitment. Marine mammals are K-selected species, meaning they have few offspring, long gestation and parental care periods, and reach sexual maturity later in life. Therefore, between years, reproduction rates vary based on age and sex class ratios. As such, population dynamics is a driver when looking at reproduction rates. We focus on reproduction here because we conservatively consider inter-stock reproduction is the primary means of recruitment for these stocks. Recent photo-identification and genetic studies off Oahu, Maui, Lanai, Kauai, Ni'ihau, and Hawaii suggest limited movement of bottlenose dolphins between islands and offshore waters (Baird *et al.*, 2009; Martien *et al.*, 2012; Van Cise *et al.*, 2021). Several studies have purported that male bottlenose dolphins are more likely to engage in depredation or related behaviors with trawls and recreational fishing (Corkeron *et al.*, 1990; Powell & Wells, 2011) or become entangled in gear (Reynolds *et al.*, 2000; Adimey *et al.*, 2014). Male bias has also been reported for strandings with evidence of fishery interaction (Stolen *et al.*, 2007; Fruet *et al.*, 2012; Adimey *et al.*, 2014) and for *in situ* observations of fishery interaction (Corkeron *et al.*, 1990; Finn *et al.*, 2008; Powell & Wells, 2011). Therefore, we believe males (which are less likely to influence recruitment rate) are more likely at risk than females. Given reproduction is the primary means of recruitment and females play a significantly larger role in their offspring's reproductive success (also known as Bateman's Principle), the mortality of females rather than males is, in general, more likely to influence

recruitment rate. PIFSC has requested, and NMFS is authorizing, two takes of bottlenose dolphins by M/SI from any stock over the course of 5 years. The average 5-year estimates of annual mortality and serious injury for bottlenose dolphins in the Hawaiian Islands EEZ is low, the stocks are not facing heavy anthropogenic pressure, and there are no identified continuous indirect stressors threatening the stock. While we cannot determine from which stock(s) the potential take by M/SI may occur, we do not expect that take by M/SI of up to two bottlenose dolphins by M/SI over 5 years from any of the identified or undefined stocks in the PIFSC research areas would adversely affect annual rates of recruitment or survival for these populations.

PIFSC has requested take of rough-toothed dolphins by M/SI from the Hawai'i stock (0.6 per year) and from all stocks other than the Hawai'i stock (0.4 per year). The authorized take by M/SI for the Hawai'i stock of rough-toothed dolphins falls below the insignificance threshold. For rough-toothed dolphins from all stocks except the Hawai'i stock, PIFSC has requested an average of 0.2 takes by M/SI per year from longline fisheries research and 0.2 takes by M/SI per year from instrument deployments. The only other defined stock of rough-toothed dolphins in the PIFSC is the American Samoa stock. PIFSC will not be conducting longline fisheries research in the ASARA, therefore no take of rough-toothed dolphins from the American Samoa stock by M/SI incidental to longline fisheries research is expected or authorized. However, rough-toothed dolphins from the American Samoa stock may be taken by M/SI from instrument deployments.

No abundance estimates are currently available for rough-toothed dolphins in U.S. EEZ waters of American Samoa. However, density estimates for rough-toothed dolphins in other tropical Pacific regions can provide a range of likely abundance estimates in this unsurveyed region. Using density estimates from other regions, NMFS has calculated a minimum abundance estimate (426–2,731 animals) and resulting PBR (3.4 to 22 animals per year) for the American Samoa stock of rough-toothed dolphins (Caretta *et al.*, 2011). Information on fishery-related mortality of cetaceans in American Samoa is limited, but the gear types used in American Samoan fisheries are responsible for marine mammal mortality and serious injury in other fisheries throughout U.S. waters. The most recent information on average incidental M/SI of rough-toothed dolphins in American Samoa is from

longline fisheries observed from 2006 to 2008 (Caretta *et al.*, 2011). During that time period, the average annual take of rough-toothed dolphins by M/SI in American Samoa was 3.6 per year. That average exceeds the lowest estimated PBR for the American Samoa stock of rough-toothed dolphins, but the potential average annual take of rough-toothed dolphins by M/SI incidental to instrument deployment (0.2 per year) is well below the insignificance threshold using the highest estimated PBR. In fact, if the 2006–2008 average fishery-related take by M/SI is still accurate, the authorized average annual take by M/SI incidental to instrument deployment falls below the insignificance threshold if the actual PBR is as low as six animals per year. Given that there is an absence of any new information on annual fishery-related M/SI or PBR, NMFS does not expect that 0.2 takes per year of the American Samoa stock of rough-toothed dolphins by M/SI would be problematic for the stock. If all 0.4 PIFSC authorized takes by M/SI per year (0.2 from longline fisheries research and 0.2 from instrument deployment) were to occur to an undescribed stock of rough-toothed dolphins, due to their extensive range throughout tropical and warm-temperate waters, NMFS also does not expect that such a small number of takes by M/SI would be problematic for populations of rough-toothed dolphins in the Pacific Ocean. Therefore, takes of rough-toothed dolphins under this LOA are not expected or likely to adversely affect the species or stock through effects on annual rates of recruitment or survival.

False Killer Whales

For this stock, PBR is currently set at 15 for U.S. waters and 33 for the broader Hawaii pelagic false killer whale management area, including areas of the high seas adjacent to the U.S. EEZ. The total annual M/SI is estimated at 47 for the broader Hawaii pelagic false killer whale management area, including annual averages of 17 within the U.S. EEZ and 30 outside the U.S. EEZ. NMFS authorizes one take by M/SI over the 5-year duration of the rule (which is 0.2 annually for the purposes of comparing to PBR and considering other effects on annual rates of recruitment and survival), which means that PBR is exceeded by 14.2.

In the commercial fisheries setting for ESA-listed marine mammals (which is similar to the non-fisheries incidental take setting, in that a negligible impact determination is required that is based on the assessment of take caused by the activity being analyzed) NMFS may find the impact of the authorized take from

a specified activity to be negligible even if total human-caused mortality exceeds PBR, if the authorized mortality is less than 10 percent of PBR and management measures are being taken to address serious injuries and mortalities from the other activities causing mortality (*i.e.*, other than the specified activities covered by the incidental take authorization under consideration). When those considerations are applied in the section 101(a)(5)(A) context here, the authorized lethal take (0.2 annually) of false killer whales from the Hawaii pelagic stock is significantly less than 10 percent of PBR (in fact less than 1 percent of 33) and there are management measures in place to address M/SI from activities other than those the PIFSC is conducting (as discussed below).

Based on identical simulations as those conducted to identify Recovery Factors for PBR in Wade *et al.* (1998), but where values less than 0.1 were investigated (P. Wade, pers. comm.), we predict that where the mortality from a specified activity does not exceed $N_{min} * \frac{1}{2} R_{max} * 0.013$, the contemplated mortality for the specific activity will not delay the time to recovery by more than 1 percent. For this stock of false killer whales, $N_{min} * \frac{1}{2} R_{max} * 0.013 = 1.08$ and the annual mortality proposed for authorization is 0.2 (*i.e.*, less than 1.08), which means that the mortality authorized in this rule for HSTT activities would not delay the time to recovery by more than 1 percent.

As discussed earlier, we also take into consideration management measures in place to address M/SI caused by other activities. The Hawaii deep-set and shallow-set longline fisheries are the cause of M/SI take from fisheries interactions for false killer whales in Hawaii. There are no other known sources of anthropogenic mortality for this stock. NMFS established the False Killer Whale Take Reduction Team in 2010 and prepared an associated Take Reduction Plan to reduce the risk of M/SI via fisheries interactions. The TRP became effective December 31, 2012, with gear requirements effective February 27, 2013, including gear requirements, time-area closures, and measures to improve captain and crew response to hooked and entangled false killer whales.

In this case, 0.2 M/SI annually means the potential for one mortality in one of the 5 years and zero mortalities in 4 of the 5 years. Therefore, the PIFSC would not be contributing to the total human-caused mortality at all in four of the 5 years covered by this rule. That means that even if a false killer whale from the Hawaii pelagic stock were to be taken by

PIFSC research activities, in 4 of the 5 years there could be no effect on annual rates of recruitment or survival from PIFSC-caused M/SI. Additionally, the loss of a male would have far less, if any, of an effect on population rates and absent any information suggesting that one sex is more likely to be taken than another, we can reasonably assume that there is a 50 percent chance that the single take authorized by the LOA issued under this rule would be a male, thereby further decreasing the likelihood of impacts on the population rate. In situations like this where potential M/SI is fractional, consideration must be given to the lessened impacts anticipated due to the absence of M/SI in 4 of the years and due to the fact that a single take could be of a male.

Lastly, we reiterate that PBR is a conservative metric and also not sufficiently precise to serve as an absolute predictor of population effects upon which mortality caps would appropriately be based. This is especially important given the minor difference between zero and one across the 5-year period covered by this rule, which is the smallest distinction possible when considering mortality. Wade *et al.* (1998), authors of the paper from which the current PBR equation is derived, note that “Estimating incidental mortality in one year to be greater than the PBR calculated from a single abundance survey does not prove the mortality will lead to depletion; it identifies a population worthy of careful future monitoring and possibly indicates that mortality-mitigation efforts should be initiated.”

The information included here illustrates that the potential (and authorized) mortality is well below 10 percent (0.6 percent) of PBR, and management actions are in place to minimize fisheries interactions. More specifically, although the total human-mortality exceeds PBR, the authorized mortality for the PIFSC’s specified activities would incrementally contribute less than 1 percent of that and, further, given the fact that it would occur in only 1 of 5 years and could be comprised of a male (far less impactful to the population), the potential impacts on population rates are even less. Based on all of the considerations described above, including consideration of the fact that the authorized mortality of 0.2 would not delay the time to recovery by more than 1 percent, we do not expect the potential lethal take from PIFSC activities, alone, to adversely affect the Hawaii pelagic stock of false killer whales through effects on annual rates of recruitment or survival. Nonetheless,

the fact that total human-caused mortality exceeds PBR necessitates close attention to the remainder of the impacts (*i.e.*, harassment) on the Hawaii pelagic stock of false killer whales from the PIFSC's activities to ensure that the total authorized takes would have a negligible impact on the species and stock. Therefore, this information will be considered in combination with our assessment of the impacts of authorized harassment takes later.

Harassment

As described in greater depth previously (see *Acoustic Effects*), we do not believe that PIFSC use of active acoustic sources has the likely potential to cause any effect exceeding Level B harassment of marine mammals. We have produced what we believe to be precautionary estimates of potential incidents of Level B harassment. There is a general lack of information related

to the specific way that these acoustic signals, which are generally highly directional and transient, interact with the physical environment and to a meaningful understanding of marine mammal perception of these signals and occurrence in the areas where PIFSC operates. The procedure for producing these estimates, described in detail in the *Estimated Take Due to Acoustic Harassment* section, represents NMFS's best effort towards balancing the need to quantify the potential for occurrence of Level B harassment with this general lack of information. The sources considered here have moderate to high output frequencies, generally short ping durations, and are typically focused (highly directional with narrower beamwidths) to serve their intended purpose of mapping specific objects, depths, or environmental features. In addition, some of these sources can be

operated in different output modes (*e.g.*, energy can be distributed among multiple output beams) that may lessen the likelihood of perception by and potential impacts on marine mammals in comparison with the quantitative estimates that guide our take authorization. We also produced estimates of incidents of potential Level B harassment due to disturbance of hauled out Hawaiian monk seals that may result from the physical presence of researchers; these estimates are combined with the estimates of Level B harassment that may result from use of active acoustic devices. The estimated take by Level B harassment in each research area is calculated using the total planned research effort over the course of 5 years. In order to assess the authorized take on an annual basis, the total estimated take has been divided by five.

TABLE 16—TOTAL AUTHORIZED TAKE BY LEVEL B HARASSMENT IN THE HARA

Species	Stock	Stock abundance	HARA Level B 5-year take	HARA Level B average annual take ^a	Annual percent of stock
Blainville's beaked whale	Hawai'i Pelagic	1,132	208	42	3.7
Bottlenose dolphin	Hawai'i Pelagic	24,669	189	38	0.2
	Kauai and Ni'i'hau	112			33.8
	Oahu	112			33.8
	Maui Nui Region	64			59.1
	Hawai'i Island	136			27.8
Cuvier's beaked whale	Hawai'i	4,431	73	15	0.3
Dwarf sperm whale	Hawai'i	Unknown	1,730	346	N/A
False killer whale	Hawai'i Insular	138	218	44	31.6
	Northwestern Hawaiian Islands	477	339	68	14.2
	Hawai'i pelagic	5,528	145	29	0.5
Fraser's dolphin	Hawai'i	40,960	442	88	0.2
Hawaiian monk seal	Hawai'i	1,564	^b 1,079	^c 216	13.8
Killer whale	Hawai'i	161	6	1	0.6
Longman's beaked whale	Hawai'i	2,550	753	151	5.9
Melon-headed whale	Hawaiian Islands	40,647	74	15	0.0
	Kohala	447	30	6	1.3
Pantropical spotted dolphin	Hawai'i pelagic	67,313	490	98	0.1
	Oahu	Unknown			N/A
	Maui Nui Region	Unknown			N/A
	Hawai'i Island	Unknown			N/A
Pygmy killer whale	Hawai'i	10,328	91	18	0.2
Pygmy sperm whale	Hawai'i	42,083	705	141	0.3
Risso's dolphin	Hawai'i	6,979	1,148	230	3.3
Rough-toothed dolphin	Hawai'i	83,915	623	125	0.1
Short-finned pilot whale	Hawai'i	19,242	1,931	386	2.0
Sperm whale	Hawai'i	5,707	451	90	1.6
Spinner dolphin	Hawai'i pelagic	Unknown	210	42	N/A
	Kauai and Ni'i'hau	601			7.0
	Oahu/4-Island Region	355			11.8
	Hawai'i Island	665			6.3
	Kure and Midway Atoll	260			16.2
	Pearl and Hermes Reef	Unknown			N/A
Striped dolphin	Hawai'i Pelagic	64,343	525	105	0.2
Unidentified beaked whale	N/A	N/A	283	57	N/A
Unidentified <i>Mesoplodon</i>	N/A	N/A	458	92	N/A

^a Annual take by Level B harassment is calculated by dividing the 5-year total estimated take by five, rounded to nearest whole number.

^b 79 takes incidental to use of acoustic sources, 1,000 takes incidental to disturbance from human presence.

^c 16 takes incidental to use of acoustic sources, 200 takes incidental to disturbance from human presence (maximum potential annual take from physical disturbance).

With the exception of the American Samoa stocks of spinner dolphins, rough-toothed dolphins, and false killer whales, marine mammals in the MARA,

ASARA, and WCPRA are not assigned to stocks, and no current abundance estimates are available for these stocks or populations. Therefore, rather than

presenting the authorized takes by Level B harassment as proportions of relevant stocks, the authorized take in these

three research areas is grouped in table 17 by species.

TABLE 17—TOTAL AUTHORIZED TAKE BY LEVEL B HARASSMENT IN THE MARA, ASARA, AND WCPRA

Species	MARA 5-year take	MARA annual take	ASARA 5-year take	ASARA annual take	WCPRA 5-year take	WCPRA annual take	All areas 5-year total take	All areas annual take ^a
Blainville's beaked whale	123	25	0	0	91	18	214	43
Bottlenose dolphin	6	1	82	16	85	17	173	35
Cuvier's beaked whale	43	9	31	6	32	6	106	21
Deraniyagala's beaked whale	0	0	0	0	32	6	32	6
Dwarf sperm whale	1,020	204	749	150	754	151	2,523	505
False killer whale	159	32	^b 10	^b 2	107	21	276	55
Fraser's dolphin	283	57	0	0	283	57	451	90
Hawaiian monk seal	0	0	0	0	0	0	0	0
Killer whale	4	1	4	1	4	1	12	3
Longman's beaked whale	0	0	0	0	328	66	328	66
Melon-headed whale	73	15	0	0	73	15	146	29
Pantropical spotted dolphin	271	54	214	43	221	44	706	141
Pygmy killer whale	7	1	0	0	41	8	48	10
Pygmy sperm whale	416	83	0	0	307	61	723	145
Risso's dolphin	30	6	0	0	500	100	530	106
Rough-toothed dolphin	38	8	^b 272	^b 54	281	56	591	118
Short-finned pilot whale	227	45	836	167	841	168	1,904	381
Sperm whale	175	35	195	39	197	39	567	113
Spinner dolphin	120	24	^b 44	^b 9	105	21	269	54
Striped dolphin	74	15	0	0	237	47	311	62
Unidentified beaked whale	167	33	123	25	123	25	413	83
Unidentified <i>Mesoplodon</i>	0	0	0	0	0	0	0	0

^a Annual take by Level B harassment is calculated by dividing the 5-year total estimated take by five, rounded to nearest whole number.

^b American Samoa stock; stock abundance unknown.

The acoustic sources planned to be used by PIFSC are generally of low source level, higher frequency, and narrow beamwidth. As described previously, there is some minimal potential for temporary effects to hearing for certain marine mammals, but most effects would likely be limited to temporary behavioral disturbance. Effects on individuals that are taken by Level B harassment will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity (e.g., Ellison *et al.*, 2012). Individuals may move away from the source if disturbed; however, because the source is itself moving and because of the directional nature of the sources considered here, there is unlikely to be even temporary displacement from areas of significance and any disturbance would be of short duration. The areas ensonified above the Level B harassment threshold during PIFSC surveys are extremely small relative to the overall survey areas. Although there is no information on which to base any distinction between incidents of harassment and individuals harassed, the same factors, in conjunction with the fact that PIFSC survey effort is widely dispersed in space and time, indicate that repeated exposures of the same individuals would be very unlikely. The short term, minor behavioral responses that may occur

incidental to PIFSC use of acoustic sources, are not expected to result in impacts the reproduction or survival of any individuals, much less have an adverse impact on the population.

Similarly, disturbance of hauled out Hawaiian monk seals by researchers (expected in the HARA) are expected to be infrequent and cause only a temporary disturbance on the order of minutes. Monitoring results from other activities involving the disturbance of pinnipeds and relevant studies of pinniped populations that experience more regular vessel disturbance indicate that individually significant or population level impacts are unlikely to occur. PIFSC's nearshore surveys that may result in disturbance to Hawaiian monk seals are conducted infrequently, with each individual island visited at most once per year. While there is some slight possibility of an individual Hawaiian monk seal moving between islands and being exposed to visual disturbance from multiple PIFSC surveys over the course of the year, it is unlikely that an individual seal would be harassed more than once per year. When considering the individual animals likely affected by this disturbance, only a small fraction of the estimated population abundance of the affected stocks would be expected to experience the disturbance. Therefore, the PIFSC activity cannot be reasonably expected to, and is not reasonably likely to, adversely affect species or stocks

through effects on annual rates of recruitment or survival.

For these reasons, we do not consider the authorized level of take by acoustic or visual disturbance to represent a significant additional population stressor when considered in context with the authorized level of take by M/ SI for any species, including those for which no abundance estimate is available.

Conclusions

In summary, as described in the *Serious Injury and Mortality* section, the authorized takes by serious injury or mortality from PIFSC activities, alone, are unlikely to adversely affect any species or stock through effects on annual rates of recruitment or survival. Further, the low severity and magnitude of expected Level B harassment is not predicted to affect the reproduction or survival of any individual marine mammals, much less the rates of recruitment or survival of any species or stock. Therefore, the authorized Level B harassment, alone or in combination with the SI/M authorized for some species or stocks, will result in a negligible impact on the effected stocks and species.

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 required monitoring and mitigation measures, we find that the total marine mammal take from the planned

activities will have a negligible impact on the 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 maximum number of individuals taken in any year 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 maximum annual 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. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Please see tables 15 through 17 for information relating to this small numbers analysis. The total amount of taking authorized is less than 5 percent for a majority of stocks, and the total amount of taking authorized is less than one-third of the stock abundance for all defined stocks, with the exception of three of the five stocks in the bottlenose dolphin stock complex. However, these calculated values assume that all estimated take by Level B harassment would occur to each of the stocks individually, as estimated take by Level B harassment cannot be attributed to specific stocks. The population abundance of the Hawaii Pelagic stock is dramatically greater than is the estimated abundance of the four insular stocks (Kauai and Niihau, Oahu, Maui Nui, and Hawaii Island), comprising 98 percent of the combined abundance of all bottlenose dolphin stocks. Therefore, it is extremely unlikely that the full annual average Level B harassment value of 38 would accrue to any of the four insular stocks in any given year, and on this basis we find that the expected taking of any of these stocks would be of no more than small numbers.

Species without defined stocks typically range across very large areas and it is unlikely that PIFSC's planned activities, with their small impact areas, would encounter, much less take more than one third of the stock. For species with defined stocks but no abundance estimates available (American Samoa stocks of false killer whale, rough-

toothed dolphin, and spinner dolphin), we note that the anticipated number of incidents of take by Level B harassment are very low for each species (*i.e.*, 2–54 takes by Level B harassment per year). While abundance information is not available for these stocks, we do not expect that the authorized annual take by Level B harassment would represent more than one third of any population to be taken and therefore the total amount of authorized taking would be considered small relative to the overall population size.

Based on the analysis contained herein of the planned activity (including the required mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that no more than small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by the issuance of regulations to the PIFSC. 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.

Adaptive Management

The regulations governing the take of marine mammals incidental to PIFSC fisheries research survey operations would contain an adaptive management component. The inclusion of an adaptive management component will be both valuable and necessary within the context of 5-year regulations for activities that have been associated with marine mammal mortality.

The reporting requirements associated with this rule are designed to provide OPR with monitoring data from the previous year to allow consideration of whether any changes are appropriate. OPR and the PIFSC will meet annually to discuss the monitoring reports and current science and whether mitigation or monitoring modifications are appropriate. The use of adaptive management allows OPR to consider new information from different sources to determine (with input from the PIFSC regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to

marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal research and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

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 evaluate our proposed action (*i.e.*, the promulgation of regulations and subsequent issuance of incidental take authorization) and alternatives with respect to potential impacts on the human environment.

Accordingly, NMFS prepared a Programmatic Environmental Assessment (PEA) to consider the environmental impacts associated with the issuance of the regulations and LOA to the PIFSC. In 2023, NMFS issued the Final PEA for Fisheries and Ecosystem Research Conducted and Funded by the Pacific Islands Fisheries Science Center and signed a Finding of No Significant Impact (FONSI). The documents can be found at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-pifsc-fisheries-and-ecosystem-research>.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of incidental take authorizations, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the Pacific Islands Regional Office.

The NMFS Pacific Islands Regional Office issued a Biological Opinion under section 7 of the ESA, on the issuance of an LOA to the PIFSC under section 101(a)(5)(A) 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 any endangered

or threatened species or result in the destruction or adverse modification of designated critical habitat.

Classification

The Office of Management and Budget has determined that this rule is not significant for purposes of Executive Order 12866.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. PIFSC is the sole entity that would be subject to the requirements of these regulations, and the PIFSC is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. No comments were received regarding this certification or on the economic impacts of the rule more generally. As a result, a regulatory flexibility analysis is not required and none has been prepared.

This rule does not contain a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act (PRA) because the applicant is a Federal agency. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. These requirements have been approved by OMB under control number 0648–0151 and include applications for regulations, subsequent LOAs, and reports.

Waiver of Delay in Effective Date

NMFS has determined that there is good cause under the Administrative Procedure Act (5 U.S.C. 553(d)(3)) to waive the 30-day delay in the effective date of this final rule. No individual or entity other than the PIFSC is affected by the provisions of these regulations.

The waiver of the 30-day delay of the effective date of the final rule will ensure that the MMPA final rule and LOA are in place as soon as possible to ensure the PIFSC's compliance with the MMPA. Any delay in finalizing the rule would result in either: (1) A suspension of planned research, which would disrupt the provision of vital data necessary for effective management of fisheries; or (2) the PIFSC's procedural non-compliance with the MMPA (should the PIFSC conduct research

without an LOA), thereby resulting in the potential for unauthorized takes of marine mammals. Moreover, the PIFSC is ready to implement the regulations immediately and requested the waiver. For these reasons, NMFS finds good cause to waive the 30-day delay in the effective date. In addition, the rule authorizes incidental take of marine mammals that would otherwise be prohibited under the statute. Therefore, by granting an exception to the PIFSC, the rule will relieve restrictions under the MMPA, which provides a separate basis for waiving the 30-day effective date for the rule.

List of Subjects in 50 CFR Part 219

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: May 7, 2025.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set forth in the preamble, NMFS amends 50 CFR part 219 as follows:

PART 219—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 219 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. As of May 16, 2025, the sunset date of January 15, 2026, for part 219 added at 86 FR 3868, Jan. 15, 2021, is removed.

Subparts E and F [Reserved]

■ 3. Reserve subparts E and F.

■ 4. Effective May 16, 2025 through May 15, 2030, add subpart G to part 219 to read as follows:

Subpart G—Taking Marine Mammals Incidental to Pacific Islands Fisheries Science Center Fisheries Research

Sec.

219.61 Specified activity and specified geographical region.

219.62 Effective dates.

219.63 Permissible methods of taking.

219.64 Prohibitions.

219.65 Mitigation requirements.

219.66 Requirements for monitoring and reporting.

219.67 Letters of Authorization.

219.68 Renewals and modifications of Letters of Authorization.

219.69–219.70 [Reserved]

Subpart G—Taking Marine Mammals Incidental to Pacific Islands Fisheries Science Center Fisheries Research

§ 219.61 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the National Marine Fisheries Service's (NMFS) Pacific Islands Fisheries Science Center (PIFSC) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section and that occurs incidental to research survey program operations.

(b) The taking of marine mammals by PIFSC may be authorized in a Letter of Authorization (LOA) only if it occurs during fishery research within the Hawaiian Archipelago, Mariana Archipelago, American Samoa Archipelago, and Western and Central Pacific Ocean.

§ 219.62 Effective dates.

Regulations in this subpart are effective from May 16, 2025 through May 15, 2030.

§ 219.63 Permissible methods of taking.

Under LOAs issued pursuant to §§ 216.106 of this chapter and 219.67, the Holder of the LOA (hereinafter “PIFSC”) may incidentally, but not intentionally, take marine mammals within the area described in § 219.61(b) in the following ways, provided PIFSC is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(a) By Level B harassment associated with physical or visual disturbance of hauled out pinnipeds.

(b) By Level B harassment associated with use of active acoustic systems.

(c) By Level A harassment, serious injury, or mortality provided the take is associated with the use of longline gear, trawl gear, or deployed instruments and traps.

§ 219.64 Prohibitions.

Except for the takings described in §§ 219.61 and authorized by a LOA issued under 216.106 of this chapter and this subpart, it shall be unlawful for any person to do any of the following in connection with the activities described in § 219.61:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under § 216.106 of this chapter and this subpart;

(b) Take any marine mammal species or stock not specified in such LOA;

(c) Take any marine mammal in any manner other than as specified in the LOA;

(d) Take a marine mammal specified in such LOA after NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(e) Take a marine mammal specified in such LOA after NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

§ 219.65 Mitigation requirements.

When conducting the activities identified in § 219.61(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 219.67 must be implemented. These mitigation measures shall include but are not limited to:

(a) *General conditions.* (1) PIFSC shall take all necessary measures to coordinate and communicate in advance of each specific survey with the National Oceanic and Atmospheric Administration's (NOAA) Office of Marine and Aviation Operations (OMAO) or other relevant parties on non-NOAA platforms to ensure that all mitigation measures and monitoring requirements described herein, as well as the specific manner of implementation and relevant event-contingent decision-making processes, are clearly understood and agreed upon. Although these regulations do not always explicitly reference those with decision making authority from cooperative platforms, all mitigation measures apply with equal force to non-NOAA vessels and personnel as they do to NOAA vessels and personnel.

(2) PIFSC shall coordinate and conduct briefings at the outset of each survey and as necessary between the ship's crew (Commanding Officer or designee(s), as appropriate) and scientific party in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(3) PIFSC shall coordinate as necessary on a daily basis during survey cruises with OMAO personnel or other relevant personnel on non-NOAA platforms to ensure that requirements, procedures, and decision-making processes are understood and properly implemented.

(4) PIFSC shall conduct monitoring for marine mammals when deploying any type of sampling gear at sea and take action to prevent and minimize any take of marine mammals by deployed sampling gear.

(5) PIFSC shall implement handling and/or disentanglement protocols as specified in the guidance that shall be provided to PIFSC survey personnel.

(b) *Vessel strike avoidance.* (1) PIFSC must maintain a 100-meter (m) separation distance between research vessels and large whales (*i.e.*, baleen whales and sperm whales) at all times. At any time during a survey or transit, if a crew member or designated marine mammal observer standing watch sights marine mammals that may intersect with the vessel course that individual must immediately communicate the presence of marine mammals to the bridge, and the vessel must take any necessary action to avoid incidental collisions.

(2) PIFSC must reduce vessel speed to 10 knots (kt) or less when piloting vessels within 1 kilometer (km; as visibility permits) of marine mammals.

(c) *Trawl survey protocols.* (1) PIFSC shall conduct trawl operations as soon as is practicable upon arrival at the sampling station.

(2) PIFSC shall initiate marine mammal watches (visual observation) at least 30 minutes prior to beginning of net deployment, but shall also conduct monitoring during any pre-set activities including trackline reconnaissance, conductivity, temperature, and depth (CTD) casts, and plankton or bongo net hauls. Marine mammal watches shall be conducted by scanning the surrounding waters with the naked eye and rangefinding binoculars (or monocular). During nighttime operations, visual observation shall be conducted using the naked eye and available vessel lighting.

(3) PIFSC shall implement the move-on rule mitigation protocol, as described in this paragraph. If one or more marine mammals are observed within 500 m of the sampling station in the 10 minutes before setting the trawl gear, and are considered at risk of interacting with the vessel or research gear, or appear to be approaching the vessel and are considered at risk of interaction, the PIFSC shall either remain onsite or move on to another sampling location. If remaining onsite, the set shall be delayed. If the animals depart or appear to no longer be at risk of interacting with the vessel or gear, a further 10 minute observation period shall be conducted. If no further observations are made or the animals still do not appear to be at risk of interaction, then the set may be made. If the vessel is moved to a different section of the sampling area, the move-on rule mitigation protocol would begin anew. If, after moving on, marine mammals remain at risk of interaction, the PIFSC shall move again

or skip the station. Marine mammals that are sighted further than 500 m from the vessel shall be monitored to determine their position and movement in relation to the vessel to determine whether the move-on rule mitigation protocol should be implemented. PIFSC may use best professional judgment in making these decisions.

(4) PIFSC shall maintain visual monitoring effort during the entire period of time that trawl gear is in the water (*i.e.*, throughout gear deployment, fishing, and retrieval). If marine mammals are sighted before the gear is fully removed from the water, PIFSC shall take the most appropriate action to avoid marine mammal interaction. PIFSC may use best professional judgment in making this decision. PIFSC must retrieve gear immediately if there is any indication marine mammals are captured or entangled in a net or associated gear (*e.g.*, lazy line) and follow disentanglement protocols approved by the NMFS Office of Protected Resources (OPR).

(5) If trawling operations have been suspended because of the presence of marine mammals, PIFSC may resume trawl operations when practicable only when the animals are believed to have departed the area. PIFSC may use best professional judgment in making this determination.

(6) PIFSC shall implement standard survey protocols to minimize potential for marine mammal interactions, including maximum tow durations at target depth and maximum tow distance, and shall carefully empty the trawl as quickly as possible upon retrieval.

(7) Dead fish and bait shall not be discarded from the vessel while actively fishing. Dead fish and bait shall be discarded after gear is retrieved and immediately before the vessel leaves the sampling location for a new area.

(d) *Longline survey protocols.* (1) PIFSC shall deploy longline gear as soon as is practicable upon arrival at the sampling station.

(2) PIFSC shall initiate marine mammal watches (visual observation) no less than 30 minutes (or for the duration of transit between set locations, if shorter than 30 minutes) prior to both deployment and retrieval of longline gear. Marine mammal watches shall be conducted by scanning the surrounding waters with the naked eye and rangefinding binoculars (or monocular). During nighttime operations, visual observation shall be conducted using the naked eye and available vessel lighting.

(3) PIFSC shall implement the move-on rule mitigation protocol, as described

in this paragraph. If one or more marine mammals are observed in the vicinity of the planned location before gear deployment, and are considered at risk of interacting with the vessel or research gear, or appear to be approaching the vessel and are considered at risk of interaction, PIFSC shall either remain onsite or move on to another sampling location. If remaining onsite, the set shall be delayed. If the animals depart or appear to no longer be at risk of interacting with the vessel or gear, a further observation period shall be conducted. If no further observations are made or the animals still do not appear to be at risk of interaction, then the set may be made. If the vessel is moved to a different section of the sampling area, the move-on rule mitigation protocol would begin anew. If, after moving on, marine mammals remain at risk of interaction, the PIFSC shall move again or skip the station. Marine mammals that are sighted shall be monitored to determine their position and movement in relation to the vessel to determine whether the move-on rule mitigation protocol should be implemented. PIFSC may use best professional judgment in making these decisions. PIFSC must retrieve gear immediately if marine mammals are believed to be captured/entangled in a net, line, or associated gear and follow disentanglement protocols approved by the NMFS OPR.

(4) PIFSC shall maintain visual monitoring effort during the entire period of gear deployment and retrieval. If marine mammals are sighted before the gear is fully deployed or retrieved, PIFSC shall take the most appropriate action to avoid marine mammal interaction. PIFSC may use best professional judgment in making this decision.

(5) If deployment or retrieval operations have been suspended because of the presence of marine mammals, PIFSC may resume such operations when practicable only when the animals are believed to have departed the area. PIFSC may use best professional judgment in making this decision.

(6) When conducting longline research in Hawai'i, American Samoa, Guam, the Commonwealth of the Northern Marianas, or exclusive economic zone (EEZs) of the Pacific Insular Areas, PIFSC shall adhere to the requirements on commercial longline gear as specified in 50 CFR parts 229, 300, 404, 600, and 665, and shall adhere to the following procedures when setting and retrieving longline gear:

(i) When shallow-setting anywhere and setting longline gear from the stern, completely thawed and blue-dyed bait

shall be used (two 1-pound containers of blue-dye shall be kept on the boat for backup). Fish parts and spent bait with all hooks removed shall be kept for strategic offal discard. Retained swordfish shall be cut in half at the head; used heads and livers shall also be used for strategic offal discard. Setting shall only occur at night and begin 1 hour after local sunset and finish 1 hour before next sunrise, with lighting kept to a minimum.

(ii) When deep-setting north of 23° N and setting longline gear from the stern, 45 gram (g) or heavier weights shall be attached within 1 m of each hook. A line shooter shall be used to set the mainline. Completely thawed and blue-dyed bait shall be used (two 1-pound containers of blue-dye shall be kept on the boat for backup). Fish parts and spent bait with all hooks removed shall be kept for strategic offal discard. Retained swordfish shall be cut in half at the head; used heads and livers shall also be used for strategic offal discard.

(iii) When shallow-setting anywhere and setting longline gear from the side, mainline shall be deployed from the port or starboard side at least 1 m forward of the stern corner. If a line shooter is used, it shall be mounted at least 1 m forward from the stern corner. A bird curtain shall be used aft of the setting station during the set. Gear shall be deployed so that hooks do not resurface. Forty-five g or heavier weights shall be attached within 1 m of each hook.

(iv) When deep-setting north of 23° N and setting longline gear from the side, mainline shall be deployed from the port or starboard side at least 1 m forward of the stern corner. If a line shooter is used, it shall be mounted at least 1 m forward from the stern corner. A specified bird curtain shall be used aft of the setting station during the set. Gear shall be deployed so that hooks do not resurface. Forty-five g or heavier weights shall be attached within 1 m of each hook.

(7) Dead fish and bait shall not be discarded from the vessel while actively fishing. Dead fish and bait shall be discarded after gear is retrieved and immediately before the vessel leaves the sampling location for a new area.

(e) *Small boat and diver protocols.* (1) Surveys and in-water operations shall be conducted with at least two divers observing for the proximity of marine mammals, a coxswain driving the small boat, and a topside spotter. Spotters and coxswains shall look out for divers, marine mammals, and environmental hazards. Topside spotters may also work as coxswains, depending on team assignment and boat layout.

(2) Before approaching any shoreline or exposed reef, all observers shall examine any visible land areas for the presence of marine mammals. Scientists, divers, and coxswains shall follow best management practices (BMPs) for boat operations and diving activities, including:

(i) Maintain constant vigilance for the presence of marine mammals.

(ii) Marine mammals shall not be encircled or trapped between multiple vessels or between vessels and the shore.

(iii) If approached by a marine mammal, the engine shall be put in neutral and the animal allowed to pass.

(iv) All in-water work not already underway shall be postponed until whales are beyond 100 yards or other marine mammals are beyond 50 yards from the vessel or diver, unless the work is covered under a separate permit that allows activity in proximity to marine mammals. Activity shall commence only after the animal(s) depart the area.

(v) If marine mammals enter the area while in-water work is already in progress, the activity may continue only when that activity has no reasonable expectation to adversely affect the animal(s). PIFSC may use best professional judgment in making this decision.

(vi) Personnel shall make no attempt to feed, touch, ride, or otherwise intentionally interact with any marine mammals unless undertaken to rescue a marine mammal or otherwise authorized by another permit.

(vii) Mechanical equipment shall be monitored to ensure no entanglements occur with protected species.

(viii) Team members shall immediately respond to an entangled animal, halting operations and providing an onsite response assessment (allowing the animal to disentangle itself, assisting with disentanglement, etc.), unless doing so would compromise human safety.

(f) *Marine debris research and removal protocols.* (1) Prior to initiating any marine debris removal operations, marine debris personnel shall thoroughly examine the beaches and near shore environments/waters for Hawaiian monk seals before approaching marine debris sites and initiating removal activities.

(2) Debris shall be retrieved in compliance with all Federal laws, rules, and regulations governing wildlife in the area. Debris removal shall occur a minimum distance of 50 yards from all monk seals and a minimum of 100 yards from female seals with pups.

(g) *Bottomfishing protocols.* (1) PIFSC shall initiate marine mammal watches

(visual observation) no less than 30 minutes (or for the duration of transit between set locations, if shorter than 30 minutes) prior to both deployment and retrieval of bottomfishing hook-and-line gear. Marine mammal watches shall be conducted by scanning the surrounding waters with the naked eye and rangefinding binoculars (or monocular). During nighttime operations, visual observation shall be conducted using the naked eye and available vessel lighting.

(2) PIFSC shall implement the move-on rule mitigation protocol, as described in this paragraph. If one or more marine mammals are observed in the vicinity of the planned location before gear deployment, and are considered at risk of interacting with the vessel or research gear, or appear to be approaching the vessel and are considered at risk of interaction, PIFSC shall either remain onsite or move on to another sampling location. If remaining onsite, the set shall be delayed. If the animals depart or appear to no longer be at risk of interacting with the vessel or gear, a further observation period shall be conducted. If no further observations are made or the animals still do not appear to be at risk of interaction, then the set may be made. If the vessel is moved to a different section of the sampling area, the move-on rule mitigation protocol would begin anew. If, after moving on, marine mammals remain at risk of interaction, the PIFSC shall move again or skip the station. Marine mammals that are sighted shall be monitored to determine their position and movement in relation to the vessel to determine whether the move-on rule mitigation protocol should be implemented. PIFSC may use best professional judgment in making these decisions.

(3) Dead fish and bait shall not be discarded from the vessel while actively fishing. Dead fish and bait shall be discarded after gear is retrieved and immediately before the vessel leaves the sampling location for a new area.

(4) If a hooked fish is retrieved and it appears to the fisher (based on best professional judgment) that it has been damaged by a marine mammal, visual monitoring shall be enhanced around the vessel for the next 10 minutes. Fishing may continue during this time. If a shark is sighted, visual monitoring may return to normal. If a marine mammal is seen in the vicinity of a bottomfishing operation, the gear shall be retrieved immediately and the vessel shall move to another sampling location where marine mammals are not present. Catch loss and a "move on" for marine mammals shall be tallied on the data sheet.

(5) If bottomfishing gear is lost while fishing, visual monitoring shall be enhanced around the vessel for the next 10 minutes. Fishing may continue during this time. If a shark is sighted, visual monitoring may return to normal. If a marine mammal is observed in the vicinity, it shall be monitored until a determination can be made (based on best professional judgment) of whether gear is sighted attached to the animal, gear is suspected to be on the animal, or gear is not observed on the animal and it behaves normally. If gear is sighted with gear attached or suspected to be attached, procedures and actions for incidental take shall be initiated, as outlined in § 219.66. Gear loss and a "move on" for marine mammals shall be tallied on the data sheet.

(h) *Instrument and trap deployments.* (1) PIFSC shall initiate marine mammal watches (visual observation) no less than 30 minutes (or for the duration of transit between set locations, if shorter than 30 minutes) prior to both deployment and retrieval of instruments and traps. Marine mammal watches shall be conducted by scanning the surrounding waters with the naked eye and rangefinding binoculars (or monocular).

(2) PIFSC shall implement the move-on rule mitigation protocol, as described in this paragraph. If one or more marine mammals are observed in the vicinity of the planned location before gear deployment, and are considered at risk of interacting with the vessel or research gear, or appear to be approaching the vessel and are considered at risk of interaction, PIFSC shall either remain onsite or move on to another sampling location. If remaining onsite, the instrument or trap deployment shall be delayed. If the animals depart or appear to no longer be at risk of interacting with the vessel or gear, a further observation period shall be conducted. If no further observations are made or the animals still do not appear to be at risk of interaction, then the gear may be deployed. If the vessel is moved to a different section of the sampling area, the move-on rule mitigation protocol would begin anew. If, after moving on, marine mammals remain at risk of interaction, the PIFSC shall move again or skip the station. Marine mammals that are sighted shall be monitored to determine their position and movement in relation to the vessel to determine whether the move-on rule mitigation protocol should be implemented. PIFSC may use best professional judgment in making these decisions. PIFSC must retrieve gear immediately if marine mammals are believed to be entangled in an instrument or trap line or

associated gear and follow disentanglement protocols.

§ 219.66 Requirements for monitoring and reporting.

(a) *Compliance coordination.* PIFSC shall designate a compliance coordinator who shall be responsible for ensuring compliance with all requirements of any LOA issued pursuant to §§ 216.106 of this chapter and 219.67 and for preparing for any subsequent request(s) for incidental take authorization.

(b) *Visual monitoring program.* PIFSC shall comply with the following monitoring requirements:

(1) Marine mammal visual monitoring shall occur prior to deployment of trawl nets, longlines, bottomfishing gear, instruments, and traps, respectively; throughout deployment of gear and active fishing of research gears (not including longline soak time); prior to retrieval of longline gear; and throughout retrieval of all research gear.

(2) Marine mammal watches shall be conducted by watch-standers (those navigating the vessel and/or other crew) at all times when the vessel is being operated.

(c) *Training.* (1) PIFSC must conduct annual training for all chief scientists and other personnel who may be responsible for conducting dedicated marine mammal visual observations to explain mitigation measures and monitoring and reporting requirements, mitigation and monitoring protocols, marine mammal identification, completion of datasheets, and use of equipment. PIFSC may determine the agenda for these trainings.

(2) PIFSC shall also dedicate a portion of training to discussion of best professional judgment, including use in any incidents of marine mammal interaction and instructive examples where use of best professional judgment was determined to be successful or unsuccessful.

(3) PIFSC shall coordinate with NMFS' Office of Science and Technology to ensure training and guidance related to handling procedures and data collection is consistent with other fishery science centers, where appropriate.

(d) *Handling procedures and data collection.* (1) PIFSC must develop and implement standardized marine mammal handling, disentanglement, and data collection procedures. These standard procedures will be subject to approval by NMFS OPR and must be complied with by PIFSC if approved.

(2) For any marine mammal interaction involving the release of a live animal, PIFSC shall collect

necessary data to facilitate a serious injury determination, when practicable.

(3) PIFSC shall provide its relevant personnel with standard guidance and training regarding handling of marine mammals, including how to identify different species, bring an individual aboard a vessel, assess the level of consciousness, remove fishing gear, return an individual to water, and log activities pertaining to the interaction.

(4) PIFSC shall record marine mammal interaction information on standardized forms, which will be subject to approval by OPR. PIFSC shall also answer a standard series of supplemental questions regarding the details of any marine mammal interaction.

(e) *Reporting.* (1) Marine mammal capture/entanglements (live or dead) must be reported immediately to the relevant regional stranding coordinator (Hawai'i Statewide Marine Animal Stranding, Entanglement, and Reporting Hotline, 888-256-9840; Guam Conservation Office Hotline, 671-688-3297; Commonwealth of the Northern Mariana Islands Division of Fish and Wildlife Hotline, 670-287-8537; American Samoa Department of Marine and Wildlife Resources, 684-633-4456), OPR (301-427-8401), and NMFS Pacific Islands Regional Office (808-725-5000).

(2) PIFSC shall report all incidents of marine mammal interaction to NMFS's Protected Species Incidental Take database within 48 hours of occurrence and shall provide supplemental information to OPR upon request. Information related to marine mammal interaction (animal captured or entangled in research gear) must include details of survey effort, full descriptions of any observations of the animals, the context (vessel and conditions), decisions made, and rationale for decisions made in vessel and gear handling.

(3) PIFSC shall submit an annual summary report to OPR:

(i) The report must be submitted no later than 90 days following the end of a given calendar year. The first annual report must cover the period from the date of issuance of the LOA through the end of that calendar year and the entire first full calendar year of the authorization. Subsequent reports will cover only 1 full calendar year. PIFSC shall provide a final report within 30 days following resolution of comments on the draft report.

(ii) These reports shall contain, at minimum, the following:

(A) Annual line-kilometers surveyed during which the EK60, EM 300, and ADCP Ocean Surveyor (or equivalent sources) were predominant and

associated pro-rated estimates of actual take;

(B) Summary information regarding use of all longline, bottomfishing, and trawl gear, including number of sets, tows, *etc.*, specific to each gear;

(C) Accounts of surveys where marine mammals were observed during sampling but no interactions occurred;

(D) Accounts of all incidents of marine mammal interactions, including circumstances of the event and descriptions of any mitigation procedures implemented or not implemented and why and, if released alive, serious injury determinations;

(E) Summary information related to any disturbance of pinnipeds, including event-specific total counts of animals present, counts of reactions according to the three-point scale, and distance of closest approach;

(F) A written description of any mitigation research investigation efforts and findings (*e.g.*, line modifications);

(G) A written evaluation of the effectiveness of PIFSC mitigation strategies in reducing the number of marine mammal interactions with survey gear, including best professional judgment and suggestions for changes to the mitigation strategies, if any; and

(H) A summary of all relevant training provided by PIFSC and any coordination with NMFS Office of Science and Technology and the Pacific Islands Regional Office.

(f) *Reporting of injured or dead marine mammals.* (1) If any activity defined in § 219.61(a) causes the take of a marine mammal in a prohibited manner, PIFSC personnel engaged in the research activity shall immediately cease such activity until such time as an appropriate decision regarding activity continuation can be made by the PIFSC Director (or designee). The incident must be reported immediately to OPR and the NMFS Pacific Islands Regional Office. OPR will review the circumstances of the prohibited take and assess what measures are necessary to minimize the likelihood of further prohibited take and ensure Marine Mammal Protection Act (MMPA) compliance. The immediate decision made by PIFSC regarding continuation of the specified activity is subject to OPR concurrence. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident including, but not limited to, monitoring prior to and occurring at time of the incident;

(iii) Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility);

(iv) Description of all marine mammal observations in the 24 hours preceding the incident;

(v) Species identification or description of the animal(s) involved;

(vi) Status of all sound source use in the 24 hours preceding the incident;

(vii) Water depth;

(viii) Fate of the animal(s) (*e.g.* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, *etc.*); and

(ix) Photographs or video footage of the animal(s).

(2) In the event that PIFSC discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), PIFSC shall immediately report the incident to OPR and the NMFS Pacific Islands Regional Office. The report must include the information identified in paragraph (f)(1) of this section.

Activities may continue while OPR reviews the circumstances of the incident. OPR will work with PIFSC to determine whether additional mitigation measures or modifications to the activities are appropriate.

(3) In the event that PIFSC discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities defined in § 219.61(a) (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), PIFSC shall report the incident to OPR and the Pacific Islands Regional Office, NMFS, within 24 hours of the discovery. PIFSC shall provide photographs or video footage or other documentation of the stranded animal sighting to OPR.

(4) In the event of a ship strike of a marine mammal by any PIFSC or partner vessel involved in the activities covered by the authorization, PIFSC or partner shall immediately report the information in paragraph (f)(1) of this section, as well as the following additional information:

(i) Vessel's speed during and leading up to the incident;

(ii) Vessel's course/heading and what operations were being conducted;

(iii) Status of all sound sources in use;

(iv) Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;

(v) Estimated size and length of animal that was struck; and

(vi) Description of the behavior of the marine mammal immediately preceding and following the strike.

§ 219.67 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, PIFSC must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, PIFSC may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, PIFSC must apply for and obtain a modification of the LOA as described in § 219.68.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within 30 days of a determination.

§ 219.68 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 219.67 for the

activity identified in § 219.61(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) OPR determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For an LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), OPR may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 219.67 for the activity identified in § 219.61(a) may be modified by OPR under the following circumstances:

(1) OPR may utilize an adaptive management process to modify or augment the existing mitigation, monitoring, or reporting measures (after

consulting with PIFSC regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from PIFSC's monitoring reports from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, OPR will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) If OPR determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in LOAs issued pursuant to §§ 216.106 of this chapter and 219.67, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

§§ 219.69–219.70 [Reserved]

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Part III

Department of Commerce

National Oceanic Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Narwhal, LLC Oil and Gas Exploration Activities in West Harrison Bay, Alaska; Notice

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XC940]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Narwhal, LLC Oil and Gas Exploration Activities in West Harrison Bay, Alaska

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 Narwhal, LLC (Narwhal) for authorization to take marine mammals incidental to oil and gas exploration activities in west Harrison Bay, Alaska. 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 a possible one-time, one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments 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 June 16, 2025.

ADDRESSES: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2025–0042 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public records 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

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-oil-and-gas>. 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:**Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

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.

Accordingly, NMFS is preparing an Environmental Assessment (EA) to consider the environmental impacts associated with the issuance of the proposed IHA. In accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA policy and procedures (NOAA Administrative Order 216–6A and its Companion Manual), NMFS has prepared a draft environmental assessment analyzing the potential impacts of NMFS’ proposed action of issuance of an IHA. NMFS is seeking public comment on the draft EA. The draft EA is available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas> for a 30 day public comment period. NMFS will consider all comments submitted in response to this notice prior to concluding the NEPA process or making a final decision on the IHA request.

Summary of Request

On October 25, 2022, NMFS received a request from Narwhal for an IHA to take marine mammals incidental to oil and gas exploration activities in and around west Harrison Bay, Alaska. After withdrawing its original request, on November 1, 2024, Narwhal resubmitted its application, which included a revised project schedule and minor changes to its activity. The application was deemed adequate and complete on January 27, 2025. Narwhal’s request is for take of four marine mammal species by Level B harassment only. Neither Narwhal nor NMFS expect serious injury or mortality to result from the specified activity, and therefore, an IHA is appropriate.

Description of Proposed Activity*Overview*

Narwhal proposes to conduct shallow hazard geophysical surveys and exploratory drilling operations, which includes construction and operation of ice trails, roads, and pads, in west Harrison Bay, Alaska to explore its oil and gas leases in the area. The activities would occur between August 2025 and July 2026 and would occur primarily in west Harrison Bay and the area between west Harrison Bay and Prudhoe Bay, Alaska. Narwhal would also conduct mobilization and barge transport activities out of Prudhoe Bay, Alaska. Shallow hazard geophysical surveys (hereinafter, “shallow water hazard surveys”) would use airguns and

sparkers as acoustic sources and would introduce underwater sound that may result in take by Level B harassment of marine mammals. Construction and operation of sea ice trails around the Colville River Delta may result in take by Level B harassment of ringed seals due to the introduction of underwater sound. A number of other activities would occur during the course of this project but are not expected to result in take of marine mammals.

Dates and Duration

The proposed IHA would be effective for a period of one year, and activities are anticipated to occur year-round. Work that may result in the take of marine mammals is expected to take place between August and September (shallow hazard surveys) and through

December and March (ice trail construction and operation). Figure 2–1 of Narwhal's IHA application provides more detail regarding timing of project activities. Please refer to Narwhal's application for additional information about the timing of its various proposed activities. Shallow hazard surveys at all six sites would take place over approximately 12 days and would occur over a 12 hour period each day. Offshore ice road and trail construction would occur over approximately 167 days and would occur as needed throughout a 24-hour period.

Several communities on the North Slope of Alaska engage in marine mammal subsistence hunting activities at varying times and in varying locations. These subsistence hunts are further described below in the Potential

Effects of Specified Activities on Subsistence Uses of Marine Mammals section. The proposed activities would occur closest to the marine subsistence use area used by the Native Village of Nuiqsut, which typically occurs August 25th to September 15th or earlier if whaling is complete.

Specific Geographic Region

Narwhal's proposed activities would primarily occur in west Harrison Bay and between Oliktok Point and west Harrison Bay in the Beaufort Sea, Alaska. Additionally, the activity would include transit between west Harrison Bay and Prudhoe Bay, Alaska. All activities would occur primarily in shallow waters of 3 meters (m) or less.

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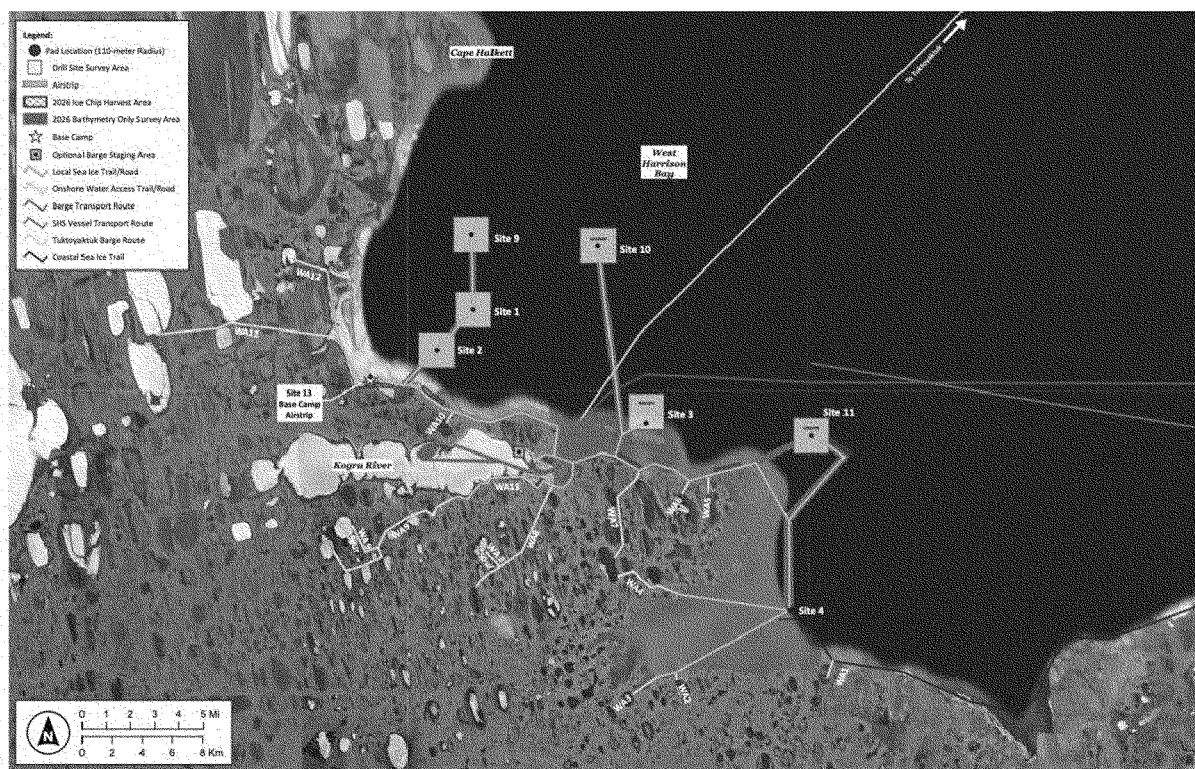


Figure 1-- Project Area

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Detailed Description of the Specified Activity

Narwhal is proposing to conduct a variety of activities in and around Harrison Bay, Alaska in support of oil and gas exploration.

Shallow Water Hazard Surveys

Narwhal plans to conduct shallow hazard surveys beginning in August 2025 at up to six offshore locations to identify up to four sites for exploratory drilling in winter 2026 (figure 1–5 of Narwhal's application). The shallow hazard surveys include use of a single airgun as the primary acoustic source and would also use a sub-bottom

profiler (SBP), echosounder/fathometer, side scan sonar (SSS), and sparker.

Use of acoustic sources other than the sparker and airgun are not reasonably expected to result in take of marine mammals and will not be discussed further beyond the brief summaries provided below.

Non-parametric SBPs are used to provide high data density in sub-bottom profiles that are typically required for

cable routes, very shallow water, and archaeological surveys. Parametric SBPs are usually mounted on a pole, either over the side of the vessel or through a moon pool in the bottom of the hull. The SBP proposed by Narwhal will be pointed vertically from the water surface into the water column along track lines spaced 600 m (1969 ft), 300 m (984 ft), and 150 m (492 ft) apart. For the proposed project, the SBP used would generate sound pulses at frequencies around 2 to 16 kHz. Ruppel *et al.* (2022) recommend that towed SBPs, including the Compressed High-Intensity Radar Pulse (CHIRP) SBP planned for use by Narwhal, be considered de minimis with regard to their potential to cause incidental take of marine mammals. The authors base this conclusion largely on the low likelihood that marine mammals would experience a received level exceeding 160 dB re 1 μ Pa (see *Background on Active Acoustic Sound Sources and Acoustic Terminology* Section) as a result of typical use of this class of acoustic sources. NMFS has determined that this is appropriate here and, therefore, considers use of SBPs by Narwhal as unlikely to result in incidental take of marine mammals.

Narwhal anticipates collecting bathymetric data using a single-beam echosounder due to the shallow water at each survey location. Echosounders and fathometers are used to determine water depths and general bottom topography. Echosounder and fathometer sonar systems project sonar pulses in angled beams from a transducer mounted to a ship's hull. The beams radiate out from the transducer in a fan-shaped pattern orthogonally to the ship's direction. SSS are used for seabed sediment classification purposes and to identify natural and man-made acoustic targets on the seafloor. The sonar device emits conical or fan-shaped pulses down toward the seafloor in multiple beams at a wide angle, perpendicular to the path of the sensor through the water column. The proposed echosounders, fathometers, and SSS have operating frequencies >200 kHz which are outside the general hearing range of marine mammals. Therefore, take is not expected to occur from use of these sources.

Additionally, Narwhal may conduct vibracore sediment sampling to obtain shallow cores of the seafloor sediment from the surface. Sediment cores will be analyzed for load-bearing capacity, shear strength, grain size, and other parameters to be determined. The proposed mini vibracore sampler is a hand-held device with a 3-position switch that allows immediate on/off

controls. To collect samples, an electric motor oscillates the core barrel into the sediment to extract a sediment core. Generally, the sound source (driving mechanism) operates for one to two minutes with the entire process requiring less than 1 hour. Vibracoring would produce a very brief duration of continuous non-impulsive sound. NMFS does not typically expect that vibracoring or similar sources of continuous noise to result in incidental take of marine mammals.

High-resolution three-dimensional (3D) seismic surveys are also expected to be conducted at the four potential drilling sites using a single 105 cubic inch (cu. in.; 1,721 cubic centimeter (cc)) towed airgun and geophone sound receivers. Approximately 480 geophones will be embedded in the seafloor by hand with a wood or aluminum planting pole to a maximum depth of 2 m (6.56 ft) in a grid pattern. The grids would be spaced at 50 m (164 ft) intervals along receiver lines as shown in figure 1–7 of Narwhal's application. This pattern will be the same in each of the four exploratory drilling locations. The airgun would fire about once every 6 or 7 seconds while traveling at a speed of approximately 2 m per second.

The airgun will be towed by the source vessel perpendicular to the receiver lines, while a support vessel will deploy and retrieve the geophones from the seafloor. Narwhal expects the survey for each site to take approximately 2 days to survey over a 12 hour period each day. In total to survey the six sites it is anticipated to take up to 30 days to complete the seismic surveys (including retrieving the geophones; 12 days of airgun use). Use of the airgun is expected to present the potential to cause incidental take of marine mammals.

Narwhal proposes to use a sparker during shallow hazard survey activities. Use of the sparker has the potential to cause incidental take of marine mammals. Sparkers are medium penetration impulsive sources used to map deep subsurface stratigraphy (soils down to at least 100 m (328 ft) below the seabed in sand and at least 125 m (410 ft) below the seabed in mixed sediments). Sparkers are typically towed behind the vessel, and may be operated with different numbers of electrode tips to allow tuning of the acoustic waveform for specific applications. Narwhal plans to use the Applied Acoustics UHD Dura-Spark or a similar system. The operation of the sparker is expected to result in the incidental take of marine mammals.

Vessels used for the shallow water hazard surveys will be mobilized from West Dock in Prudhoe Bay or from Oliktok Point. Periodic resupply, logistics support, and personnel transfers for the surveys would occur at Oliktok Point. Figures 1–1 and 1–5 of Narwhal's application show the anticipated mobilization and resupply routes for the shallow water hazard survey vessel(s). Narwhal estimates daily trips between Oliktok Point and the west Harrison Bay work area will be required over a period of 35 days during shallow water hazard survey. Bathymetry, side scan sonar, and sub-bottom profiling will require one survey vessel and one support vessel. The 3D seismic survey will require one vessel equipped with a single airgun, one vessel responsible for deploying and retrieving geophones on the seafloor, and one to two support vessels for berthing crew and expediting. The non-3D seismic shallow hazard survey work (bathymetry, sub-bottom profiler, side scan sonar, sparker) will be conducted from a single vessel, with the possible inclusion of one additional vessel for additional berth capacity, if necessary. The berthing vessel may transit to Oliktok Point during the day if necessary to pick up supplies or transport personnel. The operation of these vessels are not expected to result in take of marine mammals.

Sea Ice Trail Construction and Operation

Sea ice trails would be used by Narwhal to support the transport of light tracked vehicles and would largely consist of unimproved roads once constructed. Narwhal would use snow machines and light-weight tracked vehicles to mark the sea ice trail corridor as soon as it is determined to be safe to access (*i.e.*, as soon as there is stable grounded sea ice along the shoreline at Oliktok Point). Narwhal will install a small, 15-person camp on a 0.008 km² (.004 mi²) pad adjacent to Oliktok Point on the grounded sea ice (Oliktok Point camp). This location will receive freight from the existing gravel road infrastructure to be transferred to west Harrison Bay.

After completion of the Oliktok Point camp, the crew will construct the first section of the sea ice trail southwesterly along the coast on grounded ice to the Colville River Delta. The coastal sea ice trail may be smoothed during all-terrain vehicle (ATV) passes with a drag (*i.e.*, pulling a pipe or similar straight tool behind the ATV) during setting of the trail and periodically thereafter. Narwhal would need to thicken the ice in five or six channels in the Colville

River Delta to support any heavy equipment transport that may be needed.

To thicken the ice, seawater will be pumped to the surface and allowed to freeze in layers until at least 0.9 m of ice thickness has been achieved to allow for heavy equipment to be moved down the trail. Narwhal would manually install lightweight equipment such as centrifugal pumps to pump water to the ice surface. These pumps would be periodically repositioned along the route across the channel. Heavier pumping/auger equipment, which would be self-driven from Oliktok Point along the grounded sea ice trail, would be used to complete thickening of the sea ice once the channel ice is thick enough to support such equipment. Narwhal anticipates that thickening will require mobilization of six pumping units, which will be mobilized to west Harrison Bay upon completion of the ice trail route. Narwhal anticipates that the thickening of the Delta channels would take up to 25 days, and that thickening would require six trips per day between Oliktok Point and the western extent of the Delta for fuel resupply, crew change, and technical support.

Critical habitat for ringed seals was designated on April 1, 2022 (87 FR 19232) and outlined three primary biological features of suitable habitat, one of which is water depths greater than 3 m. Whenever possible, sea ice trails will be constructed on grounded ice to minimize the need for sea ice thickening and the potential to encounter ringed seal habitat defined in NMFS (2022a). Only small portions of sea ice trail are expected to be constructed in areas that may be in waters less than 3 m in depth (*i.e.*, the Colville River Delta portion). Narwhal anticipates that it would construct a section of the coastal sea ice trail (57.8 km; 35.9 mi) over a period of 12 days, after thickening of the Colville River Delta channels. Construction of this section of the sea ice trail would not require significant ice construction work. Narwhal would complete construction with a two-person crew and two ATVs to scout the remaining trail and set the global positioning system (GPS) points along the trail, as the construction generally consists of packing the trail with repeated ATV passes to create a hard and relatively smooth surface to travel on. Narwhal may also use a drag on initial passes to establish a smooth surface. The two-person crew will return to Oliktok Point after completing the trail to support mobilization of additional equipment to the west Harrison Bay area.

Narwhal anticipates that total construction of the coastal sea ice trail will occur over a period of 30 days and that the completed trail would be 57.8 km long with an approximate average width of 340 m.

During exploratory drilling operations (described below) over an 86-day period, an estimated average of 10 ATV trips per day will transit from Oliktok Point to the west Harrison Bay area for daily resupply if supporting a two-rig program. For a one-rig program, approximately five ATV trips per day are anticipated for daily support. The ATVs will travel in groups of two or more for safety purposes resulting in an average of two to four groups of ATVs transiting the sea ice trail daily during this period. Each trip will likely take approximately 6 hours (*i.e.*, 12 hours roundtrip within a 24-hour period).

Narwhal would transport, during mobilization phase, all necessary equipment to the west Harrison Bay area via the coastal sea ice trail utilizing various ATVs (*e.g.*, rolligons or steiger tractors). Narwhal will transport camp and ice construction equipment first, followed by equipment and materials needed for exploratory drilling after ice pads are complete. The ATVs will travel in groups of two or more for safety reasons. Typically, one or two groups of ATVs will travel on the trail on a daily basis. Narwhal anticipates approximately 410 ATV trips as part of mobilization activities in January and early February 2026. If Narwhal stages equipment and materials in advance (discussed above), mobilization would require approximately 120 ATV trips on the coastal sea ice trail rather than 210 trips.

During the construction and operation of the sea ice trail across the Colville River Delta, NMFS expects that take could occur due to the potential for open leads or cracks in the sea ice, which could provide suitable habitat for ringed seals.

Project Demobilization

Narwhal would relocate all project equipment, materials, and personnel from the west Harrison Bay operations area to Oliktok Point after completion of drilling operations. This demobilization would occur over up to 200 ATV trips via the coastal sea ice trail and would be completed by the end of April or early May 2026. NMFS expects that this activity may result in take due to disturbance caused by ATV presences on the sea ice trail in the Colville River Delta section.

Onshore, Offshore, and Freshwater Lake Surveys, Archaeological, Historical and Cultural Resources Clearance Surveys and Thermistor Install and Water Access Roads

Narwhal plans to conduct several activities onshore in the west Harrison Bay area. Field archaeological surveys would be conducted in the area immediately south of west Harrison Bay where onshore ice roads would be constructed (see below) to access freshwater source lakes. These surveys would occur in mid-to-late July 2026. Offshore archaeological and historical surveys would also be conducted to assess routes planned for the coastal sea ice trail, roads, and pads. Coastal areas of the project with shallow water less than 1.8 m in depth are inaccessible by the geophysical survey vessels. Narwhal plans to conduct lake surveys to locate adequate freshwater supplies for its activities during August 2025. Surveys will be conducted using helicopters to visually inspect water sources from the air and a zodiac type or other small vessel will be used to assess various characteristics such as fish presence and water quality. Surveys would occur over approximately 10 days and would include one daily flight to the work area from Deadhorse, Alaska. Aerial surveys would be flown by helicopter at an altitude of 457 m (1499 ft), unless such an altitude is unsafe. Narwhal may land one to three times per day during the onshore surveys. Narwhal anticipates that onshore surveys would occur over approximately three days and the offshore and lake surveys to occur over 10 days. Narwhal would also construct lake access roads and may install thermistors along the tundra access routes from the sea ice to selected source water lakes to monitor soil temperatures during freeze up fall 2025.

These activities would occur over land or over extremely shallow waters in West Harrison Bay, and therefore, are not anticipated to harass marine mammals and are not discussed further.

Optional Staging on Kogru Airstrip and Barges

Narwhal may stage equipment in advance of winter activities to reduce the total number of ATV trips and time required for mobilizing project equipment via the coastal sea ice trail from Oliktok Point and to enable faster start-up once sea ice conditions permit. Advance equipment staging would occur during mid-August or September of 2025. Narwhal identified two options for advance staging sites.

Option 1, Kogru Airstrip—Narwhal would use the existing gravel Kogru

airstrip (see figure 1–10 of Narwhal's IHA application) and place a series of interlocking tundra mats between the shoreline and the airstrip to provide support for offloading materials from barges along shore up to the existing Kogru airstrip. This scenario would require water depth sufficient for barge activity in the nearshore vicinity of the Kogru airstrip.

Option 2, Protected Location in West Harrison Bay—Narwhal would tow up to six empty anchored barges from Tuktoyaktuk, Canada, and anchor them in a protected location within west Harrison Bay. The barges would be pushed into a sandy beach by tug and frozen in place during fall 2025. Narwhal would use a temporary ramp to offload a front-end loader onto the beach. The loader would then set 4 to 6 anchors on the beach to hold the barges fast to the shoreline. The barges will be tied to each other in a rectangle arrangement to provide a continuous staging surface for the placement of equipment and materials.

Narwhal may also place two to four anchors in the water at the open-water end of the barges. These anchors would be set by lowering them into the water (estimate 1 m (3 ft) depth) from a barge with the same loader, and then connecting the anchors to the moored barges. Final locations for placement of anchors on the beach and in open water will be subject to a mooring analysis that will ensure the barges are not moved off location by wind and ice movement during breakup. Narwhal identified protected locations for this option in the Kogru River, near the Eskimo Islands and other western areas of Harrison Bay (see figure 1–12 in Narwhal's IHA application), generally in waters less than 1 m deep. Narwhal does not anticipate needing a tug to hold the barge against significant tides or currents, as the area selected for advanced staging will be relatively calm and in shallow water.

Narwhal anticipates that transfer of equipment and materials for advance staging would require a total of five barge trips from West Dock/Prudhoe Bay or Oliktok Point. However, vessel transit is not generally anticipated to result in take of marine mammals due to the proposed routes in relatively shallow water and the slow speed of the vessels. Given this, NMFS does not anticipate either option to result in take of marine mammals due to the transport of barges for equipment staging, and these activities are not discussed further.

Narwhal would employ a two-person caretaker crew that would remain on site during the staging period mid-

August through September 2025 to monitor the equipment and fuel, patrol the area, and collect basic ocean data. The crew would stay at a small skid camp located at the advance staging location. Narwhal may repurpose the small skid camp as a company office and sleeping facility at the drilling location during drilling operations or it may be set as the safety stop at the approximate halfway point of the coastal sea ice trail. Narwhal anticipates one helicopter flight per week will provide support to the caretaker crew. NMFS does not expect take to occur during these flights given they would occur mostly over land and over 457 m in elevation as specified in the Proposed Mitigation section.

The advance staging barges would be transported back to Tuktoyaktuk, Canada in the latter half of July or early August 2026 when ice conditions permit barge transport.

Sea Ice Road Construction and Operation

Narwhal would construct local sea ice roads to support exploratory drilling operations. Ice roads are designed to accommodate heavier equipment, including standard vehicles such as pick-up trucks, SUVs, buses and other trucks to be used to transport personnel and equipment including the drilling rigs to the drill sites. Table 1–4 of Narwhal's application summarizes the estimated lengths of each ice road and timeframes for construction.

Narwhal also proposes that between January 20 and April 12, 2026, it will take an estimated five ATV trips per day between Oliktok Point and the west Harrison Bay operations base for resupply. The ATVs will travel in groups of two or more for safety purposes resulting in an average of one or two groups of ATVs transiting the sea ice trail daily during this period. Each trip will likely take approximately six hours (*i.e.*, 12 hours roundtrip within a 24-hr period).

Narwhal would determine the final west Harrison Bay ice road routes to exploratory drilling locations and onshore freshwater source lakes using ongoing geological and geophysical analysis, the results of the shallow hazard surveys, and the pre-clearance archaeological and freshwater lake surveys.

Where the ice road route includes floating sections of sea ice, Narwhal would thicken the ice using flooding techniques shown in figure 1–19 of Narwhal's application. Narwhal will thicken the road until the ice is grounded or at least 1.5 m (5 ft) to 1.8 m (6 ft) thick. After the ice road is

sufficiently grounded or thickened to the prescribed depth, Narwhal will place a freshwater cap on the ice road to provide a harder and more durable surface for equipment. In a typical year, natural sea ice growth in west Harrison Bay generally reaches a maximum thickness of approximately 1.8 m by the end of April, which is anticipated to be the maximum ice road thickness. Flooding and ice buildup or maintenance activities may be conducted during non-daylight hours.

Narwhal would need to smooth the sea ice road routes as well. On grounded sea ice road sections that do not require flooding, Narwhal would conduct smoothing using ATV techniques used on the coastal sea ice trail or by using a motor grader. Ungrounded sea ice road sections that did require flooding to thicken the road would generally be smoothed out by the flooding process, though Narwhal may use a motor grader when the road is near completion and can support heavier equipment. Narwhal would use a bulldozer to breach any ice ridges present on the ice road route, though ice ridges are not anticipated to be a significant issue in west Harrison Bay, as the ice sheet is generally very smooth over most of the area with ice ridging occurring along the subsea feature of Pacific Shoal. Re-routing of sea ice roads will be minimized whenever possible.

Narwhal anticipates that the maintained ice road width, including taper areas and shoulders where blown snow may be placed, would be approximately 49 m (161 ft). Vehicle trips on local ice roads in west Harrison Bay would be concentrated between the base camp and the active drilling and testing location(s). Narwhal anticipates 25 round trips would occur on a daily basis between the rig and base camp for drilling and an additional 20 round trips per day for testing (separate from drilling; *i.e.*, 45 total trips). Well testing operations on a given well would be anticipated to last approximately 10 days.

The construction and operation of the sea ice roads is expected to be conducted entirely on grounded sea ice which would not be suitable habitat for ringed seals and therefore, NMFS does not expect take of marine mammals to occur on ice roads. As stated above, the portion of the sea ice trail that crosses the Colville River Delta is the only portion where NMFS expects take of marine mammals to occur.

Ice Pad Construction for Drilling Operations

As described below in the Exploratory Drilling Operations section, Narwhal

would conduct exploratory drilling operations at four sites that it surveys. Therefore, it would construct four sea ice pads (one at each drill site) using the same techniques described above for sea ice roads. Narwhal would construct sea ice pads in shallow water (1 m or less) using the flooding techniques if the ice is not already grounded. Narwhal may also add snow or ice chips to water to freeze the material in place. All ice pads will be grounded with additional ice above sea level to protect against ice movement during a storm event with higher seas. Narwhal would construct ice pads in deeper water (up to 2.5 m) with spray ice techniques to build up the base level with sufficient ice above sea level to ensure the ice pad will not be moved during a storm surge event.

When the desired pad elevation has been achieved, Narwhal would smooth the ice surface with a bulldozer and motor grader, and add a freshwater cap to provide a durable work surface as is done for the ice roads. Ice pad construction would occur concurrently with ice road construction and would take approximately 2–3 weeks depending on water depth and ambient temperatures. Ice pads will be constructed in sequence. The finished diameter of an ice pad would be approximately 183 m (600 ft).

NMFS does not expect take of marine mammals to occur due to the construction of ice pads since pads would only be constructed on grounded sea ice.

Temporary Airstrip and Base Camp Construction and Use

Narwhal plans to construct a temporary airstrip on grounded sea ice (23 m (75 ft) wide and up to 1,525 m (5,003 ft) long). The specific location is generally anticipated to be close to the exploratory drilling base camp (see figure 1–16 in Narwhal's IHA application). To construct the airstrip, Narwhal would plow snow off the sea ice to create a smooth surface for aircraft and install perimeter lighting for visual flight operations. Narwhal may plow the strip as necessary with a motor grader to remove snow, or use a snow blower if large drifts occur. However, the airstrip will be sited to avoid drifted snow to the extent possible. Narwhal may periodically spread fresh water on the runway surface as needed to maintain a hard, smooth, and safe surface for aircraft.

Aircraft would use the temporary airstrip between December 6, 2025 and May 5, 2026. Narwhal does not anticipate using helicopters after the sea ice airstrip is established. During ice construction and drilling, Narwhal

anticipates that it would make approximately 68 flights using fixed wing aircraft.

NMFS does not anticipate that use of aircraft associated with this project would result in take of marine mammals. Born *et al.* (1999) analyzed “escape responses” (*i.e.*, hauled out animals entering the water) from an aircraft and a helicopter flying at an altitude of 150 m (492 ft). The results of the study indicated that if the aircraft do not approach the seals closer than 500 m (1,640 ft) at that altitude, the risk of flushing the seals into the water can be greatly reduced. While Bradford and Weller (2005) note that helicopter presence resulted in flushing of most of the hauled out seals during observations, they did not note specific distances of the helicopter at which flushing occurred. Use of aircraft is not expected to result in take given the proposed mitigation measures related to aircraft that reduce the potential for take. See the Proposed Mitigation section of this document for further detail.

Narwhal would assemble and start up the base camp where it will set modules approximately 3.7 m (12 ft) wide by 18 m (59 ft) long side by side with a front end loader. Narwhal has not determined the exact camp location, but estimates that the footprint of the overall camp facility would be 100 m (328 ft) by 50 m (164 ft). Narwhal may use additional sea ice area around camp for staging equipment and materials, fuel storage, and loading and receipt of freight. NMFS does not expect take to occur during the construction of the base camp on sea ice since it would be constructed on grounded ice.

Summer Cleanup

In early July 2026, after the snow has melted off the tundra, Narwhal would use a helicopter to conduct cleanup of the coastal sea ice route and freshwater access routes in the west Harrison Bay area. Narwhal would collect and dispose of project debris that can be safely retrieved. Narwhal would use one helicopter to complete this work over a period of approximately 3 to 5 days, including possible weather delays. These activities would require approximately 6 hours per day of flight time with up to 25–40 landings per day.

The use of the helicopter is not expected to result in take. However, this proposed IHA includes mitigation measures related to all aircraft that further reduce any potential for take. See the Proposed Mitigation section of this document for further detail.

Exploratory Drilling Operations

Upon completion of the sea ice roads and pads, Narwhal would assemble the exploratory drilling rig on site over about 7 to 10 days. Exploratory drilling is estimated to occur over 21 days per well including moving between sites via sea ice road. Narwhal may conduct flow testing on a well after the rig has been moved to the next well.

To conduct well testing, Narwhal would install a test tree on top of a completed well to control flow from the well at the surface. Prior to flowing fluids to the surface, Narwhal will perforate the well casing downhole to allow formation fluids to flow into the well. Well fluids would flow through the tree into a choke manifold and then to a line heater and into a three-phase separator. High pressure piping will connect all testing equipment. Separated gas will be measured and flared with oil and water directed to separate tanks for measurement. Produced liquids will either be reinjected back into the well after testing is complete or backhauled to the Prudhoe Bay infrastructure for disposal. Testing operations including rig up and rig down of the test spread is anticipated to take 15 days. At the completion of testing operations, the well will be plugged and abandoned in accordance with Alaska Oil and Gas Conservation Commission regulations. Plugging and abandonment will include pumping cement into the well to seal off the casing perforations, any annuli, and a surface cement plug will be installed in the upper 45 m of the wellbore. After cementing, the well will be cut off at least five feet below the seafloor.

Exploratory drilling operations would be conducted 24 hours per day. Narwhal anticipates that rig moves between wells would take 5 days or less and would be done with conventional heavy haul trucks and trailers. Each rig move is anticipated to require 60 truck trips from one drilling location to the next. Narwhal anticipates that drilling operations would occur over approximately 82 days, including time to move the rig, for the entirety of the drilling operation. All drilled exploration wells will be plugged and abandoned during the 2025/2026 winter season.

Drilling sounds are expected to transmit poorly from the drill rig machinery through ice or soft substrate into the water (Richardson *et al.* 1995). Recordings of underwater sounds during drilling operations were recorded in late February and early March of 2001 and 2002 from Northstar Island, an artificial gravel island located

approximately 125 km (77 mi) east of west Harrison Bay in water 11.9 m (39 ft) deep. Underwater sound during drilling alone (*i.e.*, without other production noises from the island) were reported in Blackwell *et al.* (2004a) as 114 dB re 1 μ Pa at 250 m (820 ft) from the source during ice-covered conditions. The lowest level of underwater sound recorded during drilling alone was reported as 104 dB re 1 μ Pa at 1 km, while background sound levels (measured at 95 dB re 1 μ Pa) were reached 2 to 4 km from the source (Blackwell *et al.* 2004a). None of these underwater sounds exceeded the 120-dB root mean square continuous noise threshold criterion (see Background on Active Acoustic Sound Sources and Acoustic Terminology section) at the reported distances close to the island, and similar low-level underwater sounds are expected during short-term (*i.e.*, 25 non-continuous days) exploratory drilling in west Harrison Bay.

Airborne drilling sounds are similarly not expected to exceed the 100 dB re 20 μ Pa threshold criterion for pinnipeds (other than harbor seals). In the early winter-spring of 2001 and 2002, the levels, frequency characteristics, and range dependence of sounds and vibrations during industrial activity (*i.e.*, mainly drilling and production) at Northstar were recorded (Blackwell *et al.* 2004a). The “drilling” category included only periods of time during which the drill bit was boring through subsurface formations. Only recordings when wind speed was <5 m/s were used to minimize contamination in the data.

The highest (80 dB re: 20 mPa) and lowest (44 dB re: 20 mPa) broadband levels were recorded in 2002 at 220 m (722 ft) and 9.4 km (31 ft), respectively. NMFS concludes that neither airborne nor underwater noise resulting from drilling operations is likely to exceed associated threshold criteria. As a result, no take of marine mammals is anticipated during exploratory drilling during winter in west Harrison Bay and this activity is not discussed further.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the 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 of this information, and we refer the reader to these descriptions instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.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 1 lists all species or stocks for which take is likely from the specified

activities and proposed to be authorized and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality 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. Alaska SARs. All values presented in table 1 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 1—SPECIES¹ LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual mortality/ serious injury (M/SI) ⁴
Order Artiodactyla—Cetacea—Mysticeti (baleen whales)						
<i>Family Balaenidae:</i> Bowhead whale	<i>Balaena mysticetus</i>	Western Arctic	E, D, Y	15,227 (0.165, 13,263, 2019).	133	57
Order Carnivora—Pinnipedia						
<i>Family Phocidae (earless seals):</i> Bearded Seal	<i>Erignathus barbatus</i>	Beringia	T, D, Y	Unknown (UND) (UND, UND, 2013).	UND	6,709
Ringed Seal	<i>Pusa hispida</i>	Arctic	T, D, Y	UND (UND, UND, 2013)	UND	6,459
Spotted Seal	<i>Phoca largha</i>	Bering	-, -, N	461,625 (N/A, 423,237, 2013).	25,394	5,254

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 Endangered Species Act (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 stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region/>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

⁴ These values, found in NMFS' 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.

As indicated above, all four species, comprising four managed stocks, in table 1 temporally and spatially co-occur with the specified activities to the degree that take is reasonably likely to occur. While gray whale (*Eschrichtius robustus*), beluga whale (*Delphinapterus leucas*), and harbor porpoise (*Phocoena phocoena*) have been documented in the Beaufort Sea, the temporal and/or spatial occurrence of these species is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. Gray whales and harbor porpoises rarely occur east of Point Barrow, approximately 200 km west of the project area. Further, while beluga whales occasionally occur in the Beaufort Sea, they are generally distributed at or beyond the continental shelf break outside of the project area (Ireland *et al.* 2016).

In addition, the polar bear (*Ursus maritimus*) may be found in west Harrison Bay. However, polar bear are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

Bowhead Whale

Of the five stocks of bowhead whale, only the Western Arctic stock occurs in U.S. waters. The Western Arctic stock of bowhead whales are distributed seasonally in ice-covered waters of the Arctic and near-Arctic, generally between 60 degrees and 75 degrees North latitude in the Western Arctic Basin (Moore and Reeves 1993; Muto *et al.* 2018). The majority of the stock migrates annually from wintering areas (December to March) in the central and northwestern Bering Sea, north through the Chukchi Sea in the spring (April through May) following offshore ice leads around the coast of Alaska, and into the eastern Beaufort Sea where they spend most of the summer (June through early to mid-October). Most animals from the stock return to the Bering Sea in the fall (September through December) where they overwinter (Braham *et al.* 1980; Moore and Reeves 1993; Citta *et al.* 2015; Muto *et al.* 2018).

The annual migration of the Western Arctic stock to and from the summer feeding grounds in the Beaufort Sea has been monitored by the Bureau of Ocean Energy Management (BOEM) (and predecessor agencies), NMFS, and/or industry since 1982 (Treacy *et al.* 2006; Blackwell *et al.* 2007; Ireland *et al.* 2009; Reiser *et al.* 2011; Bisson *et al.* 2013; Clarke *et al.* 2014). Survey data indicate that the fall migration off northern Alaska occurs primarily over the continental shelf, generally 12–37

mi (19–60 km) offshore, in waters 11–60 m deep (Moore *et al.* 1989; Moore and Reeves 1993; Treacy 2002; Monnett and Treacy 2005; Treacy *et al.* 2006). Waters less than 4.5 m deep are considered too shallow to support these whales, and in three decades of aerial surveys by BOEM Aerial Surveys of Arctic Marine Mammals (ASAMM), no bowhead whale has been recorded in waters less than 5 m deep (Clarke and Ferguson 2010).

In September 2020, Brower *et al.* (2022) reported an unusual sighting of an aggregation of bowhead whales just east of Harrison Bay (see figure 4–2 of Narwhal’s application). Bowhead whales had not typically been observed in this area since 1982, when similar aerial surveys (now referred to as ASAMM) began (Brower *et al.* 2022). The sighting data represented in figure 4–2 of Narwhal’s application are approximately 5 to 10 km west-northwest of Narwhal’s proposed activities that would occur during the open-water season. As described in Brower *et al.* (2022), the aggregation of bowheads near Harrison Bay was attributed to a large oceanographic front due to high freshwater discharge from the Colville River (three and a half times the historical mean), which can aggregate prey.

Hauser *et al.* (2008) reported results for bowhead whale surveys near the Colville River Delta in August and September 2008, reporting that most bowheads were observed between 25 and 30 km north of the barrier islands offshore. In 2017, Quintillion Subsea Operations, LLC monitored for marine mammals during installation of a fiber optics cable more than 50 km offshore of Oliktok Point moving west to Point Barrow and beyond (Green *et al.* 2018). In the fall of 2017, the project recorded 17 groups of bowhead whales (25 individuals) during operations offshore of Oliktok Point. Bowhead whale group size ranged from 1 to 5 with a mean of 1.47 (Green *et al.* 2018).

In September 2022 as part of a long term study, researchers tagged 11 bowhead whales with satellite transmitters to help determine how decreasing sea ice, changing wind patterns, warmer water, and increasing human activity are affecting bowhead whale behavior and distribution (http://www.adfg.alaska.gov/index.cfm?adfg=marine_mammalprogram.bowhead). This project began in 2006 and is a collaboration among the Alaska Department of Fish and Game (ADF&G), the Alaska Eskimo Whaling Commission (AEWC), Whaling Captain’s Associations of Barrow, Kaktovik,

Gambell, and Savoonga, the Aklavik and Tuktoyaktuk Hunters and Trappers Committees, the North Slope Borough (NSB), the Barrow Arctic Science Consortium, the Department of Fisheries and Oceans Canada, and the Greenland Institute of Natural Resources. Further analysis of the movement patterns showed that these tagged animals from 2022 did not extend into Harrison Bay, Alaska.

Critical habitat has not been designated for the bowhead whale. However, Clarke *et al.* (2023) identified several Biological Important Areas (BIAs) for feeding and migration for both mature and juvenile whales that directly overlap or occur close to the project area. Bowhead feeding BIAs encompass much of the Arctic region from May through December with the August, September, and October BIAs occurring close to the proposed project area. These areas were delineated from data collected during the ASAMM survey where both juvenile and adult bowhead whales were observed feeding or milling (Clark *et al.* 2023). Ferguson *et al.* (2023) found that correlations with Arctic krill (*Euphausia superba*) and specifically “krill traps” created by wind driven upwelling bringing prey from depth and concentrating it near freshwater runoff drove much of the feeding aggregations. Migratory BIAs also occur in the vicinity of the project area and overlap with feeding BIAs from August through October. Migration routes were found closely correlated with feeding areas and essentially contain the same habitat type as described above (Clark *et al.* 2023). The reproductive BIAs identified for bowhead whale all occur over 32 km (20 mi) offshore from the project area and are not anticipated to be affected by Narwhal’s activities.

In summary, we expect that bowhead whales would occur within the project area during the open water season. Much of the presence of bowhead whales and their important habitat as described above would be at the farthest extent of the project area during the open water periods. NMFS expects that there is some potential for bowhead whales to occur in the project area in the summer and fall and may experience disturbance from the underwater noise produced during the operation of the seismic airgun. NMFS would not expect bowheads to be present during Narwhal’s ice-cover activities.

Bearded Seal

The Alaska stock of bearded seals occur seasonally in the shallow shelf waters of the Beaufort, Chukchi, and

Bering Seas (Cameron *et al.* 2010). A reliable population estimate for the entire stock is not available. The actual number of ringed seals in the U.S. portion of the Bering Sea is likely much higher (Young *et al.* 2023). Bearded seals are closely associated with ice and their migration coincides with the sea ice retreat and advancement. During winter, most bearded seals in Alaskan waters are found in the Bering Sea as their movements are related to the advance and retreat of sea ice (Kelly 1988). In the Chukchi and Beaufort seas, favorable conditions for bearded seals are more limited, and they are less abundant. From mid-April to June as the ice recedes, some of the bearded seals that overwintered in the Bering Sea migrate northward through the Bering Strait to the Chukchi and Beaufort seas. During the summer, bearded seals are found near the fragmented margin of multi-year ice that covers the continental shelf of the Chukchi Sea and in nearshore areas of the central and western Beaufort Sea (Ireland *et al.* 2016).

Aerial surveys conducted in the Beaufort Sea indicated that bearded seals preferred water depths between 25–75 m (82–246 ft) and areas of open ice cover (Cameron *et al.* 2010). ASAMM commonly observe bearded seals offshore in the Beaufort Sea; however, no sightings have been observed in the west Harrison Bay. Based on bearded seal water depth and ice coverage preferences, survey observations in the Prudhoe Bay region, and the normal level of ongoing industrial activity in the project area, only very small numbers of bearded seals are expected near the project area.

Critical habitat for the bearded seal was designated in May 2022 and includes marine waters off the coast of Harrison Bay, Alaska (87 FR 19180; April 1, 2022). Essential features established by NMFS for conservation of the bearded Beringia Distinct Population Segment (DPS) and the U.S. portion of the Beringia stock include (1) Sea ice habitat suitable for whelping and nursing, which is defined as areas with waters 200 m or less in depth containing pack ice of at least 25 percent concentration and providing bearded seals access to those waters from the ice; (2) Sea ice habitat suitable as a platform for molting, which is defined as areas with waters 200 m or less in depth containing pack ice of at least 15 percent concentration and providing bearded seals access to those waters from the ice, and (3) Primary prey resources to support bearded seals: Waters 200 m or less in depth containing benthic organisms, including

epifaunal and infaunal invertebrates, and demersal fishes. Narwhal's proposed project would not overlap with bearded seal critical habitat and therefore, not have any potential effects to that habitat.

In summary, bearded seals may occur in the project area during the open water season as the sea ice recedes in the Harrison Bay area. NMFS expects that some individuals would inhabit the coastal areas of west Harrison Bay and have the potential to be disturbed by seismic surveys. Bearded seals could potentially occur in the project area during the remainder of the year; however, given the shallow waters of west Harrison Bay, NMFS expects bearded seals to mainly occur offshore in pack ice during the ice covered periods.

Ringed Seal

Ringed seals are distributed in all seasonally ice-covered seas of the Northern Hemisphere (Lang *et al.* 2021, Muto *et al.* 2020). Five subspecies of ringed seals are currently recognized, with only the Arctic stock occurring in U.S. waters of the Arctic Ocean and Bering Sea (Rice and Society for Marine Mammalogy 1998). Although Conn *et al.* (2014) calculated an abundance estimate of 171,418 using a subset of aerial survey data collected in 2012 by Moreland *et al.* (2013) that covered the entire ice-covered portions of the Bering Sea, this estimate is considered to be low and was multiplied by a factor of two (Young *et al.* 2023).

They are year-round residents of the Chukchi and Beaufort seas and are generally the most encountered seal in the U.S. Arctic. While other ice seals, such as spotted and bearded seals, may be present in the Beaufort Sea during the open-water season, only ringed seals are expected to be in the nearshore environment during the ice-covered months and, therefore, are the only species expected to be affected by Narwhal's activities, such as ice trail construction and operation, during the ice covered season (see Detailed Description of Specified Activities section).

Ringed seals are abundant in the winter and spring on shorefast and pack ice in the northern Bering Sea, Norton Sound, Kotzebue Sound, Chukchi Sea, and Beaufort Sea, where they utilize sea ice for pupping and nursing as well as resting. Landfast ice has been shown to be the best habitat for ringed seal pupping (Kelly 1988). Moulton *et al.* (2002) found the highest concentrations of ringed seals on stable, shorefast ice over water depths of about 10–20 m in late May and early June; but waters less

than 5 m deep are not preferred wintering areas for ringed seals (Frost *et al.* 2004, Moulton *et al.* 2002). In the summer months, they use sea ice as a platform for molting and resting, although ringed seals can remain pelagic in productive foraging areas for long periods of time. In the fall, ringed seals utilize sea ice as a platform for resting, and rarely haul out in terrestrial habitats.

During the winter, ringed seals excavate and maintain breathing holes in the ice and occupy lairs in accumulated snow (Smith and Stirling 1975). Ringed seals give birth in lairs from mid-March through April, nurse their pups in the lairs for 5 to 8 weeks, and mate in late April and May (Smith 1973; Hammill *et al.* 1991; Lydersen and Hammill 1993; as cited in (Ireland *et al.* 2016)). Seal mothers continue to forage throughout lactation and move young pups between a network of four to six lairs (Ireland *et al.* 2016). Arctic ringed seals generally prefer landfast ice along the shoreline for pupping. Frost *et al.* (2004) conducted aerial surveys over the Beaufort Sea coast from Utqiagvik to Kaktovik and determined that ringed seal density was greatest in water depths between 16 and 115 ft (5 and 35 m), and in relatively flat ice close to the fast ice edge. Aerial surveys conducted in association with construction near the Northstar facility found ringed seal annual densities ranged from 0.39 to 0.83 seals per km² (Moulton *et al.* 2005).

The ringed seal diet is composed predominantly of pelagic fish such as cod (Crain *et al.* 2021) but also includes shrimp and planktonic crustaceans; the relative importance of each type of prey depends on local availability and season (Lowry *et al.* 1998, as cited in (Ireland *et al.* 2016)). They have been shown to dive to depths of up to 46 m or more while foraging. Ringed seals are hunted by killer whales and polar bears. Spatial distributions and population fluctuations of ringed seals and polar bears appear to be tightly correlated in some areas (Stirling and Øritsland 1995 as cited in (Ireland *et al.* 2016)).

Optimal overwintering areas for ringed seals in the Beaufort Sea occur in waters between 10 and 35 m deep, preferably in the landfast ice along the shoreline close to lead systems. In May 2022, two trained wildlife-detection dogs were used to survey an area in Prudhoe Bay near Northstar Island. A total of 61 ringed seal structures (47 breathing holes and 14 lairs) were identified in an 88.2 km² area resulting in a density of 0.68 structures/km². Lair density was higher in water deeper than 5m; however, seal structures were found in all water depths (Quakenbush *et al.*

2022). Ringed seal movements during winter and spring are typically quite limited, especially where ice cover is extensive (Kelly *et al.* 2010a).

During spring (*i.e.*, May and June in the Arctic), ringed seals spend time basking on the ice. Based on a tagging study in the mid-2000s between Pt. Barrow and Peard Bay along the Chukchi Sea coast, tagged seals ($n=43$) spent an average of 3 percent (95 percent Confidence Level (CL): 1–4 percent) of their time in lairs and an average of 37 percent (95 percent CL: 32–41 percent) of their time basking after the first emergence from the subnivean lair. Basking duration (median) on the ice increased to nine hours before ice melt during the course of the study (Kelly *et al.* 2010a).

On April 1, 2022, NMFS designated critical habitat for the Arctic subspecies of ringed seals (87 FR 19232). The critical habitat designation covers areas of marine habitat in the Bering, Chukchi, and Beaufort seas. During the designation, NMFS considered their primary biological features: (1) snow covered sea ice suitable for subnivean birth lair formation and maintenance defined as waters 3 m or more in-depth containing area of shorefast ice or dense stable pack ice that contain snow drifts at least 54 cm deep to maintain lairs; (2) sea ice suitable for basking and molting defined as waters 3 m or more in depth with 15 percent or higher concentrations of sea ice; and primary prey resources to support ringed seals defined as small, schooling fish and small crustaceans. Narwhal's proposed project would not overlap with ringed seal critical habitat and therefore, not have any potential effects to that habitat.

Ringed seals were the most common pinniped observed during marine mammal monitoring for installation of an offshore fiber optic cable in the Beaufort and Chukchi seas; 57 groups (77 individuals) were recorded (Green *et al.* 2018). All but three of the seals were recorded during operations offshore of Oliktok Point. Four of the ringed seals were identified as juveniles. Figure 4–6 of Narwhal's application depicts observations of ringed seals during summer and fall from industry-sponsored vessels over the period 2006–2012, including detections in eastern Harrison Bay and the area around Oliktok. NMFS expects that ringed seals would be the most common pinniped observed during the project during the

open-water period and the only species during the ice-covered months.

Spotted Seal

In U.S. waters, spotted seals from the Bering stock are distributed along the continental shelf of the Bering, Chukchi, and Beaufort seas (Muto *et al.* 2021). They are present in the Beaufort Sea from July through late August (Ireland *et al.* 2016); they sometimes haul out on land but also spend extended periods at sea and are rarely seen on the pack ice. During the spring when pupping, breeding, and molting, spotted seals are found along the southern edge of the sea ice in the Okhotsk and Bering seas (Rugh *et al.* 1997). As the ice cover thickens at the onset of winter, spotted seals leave the northern portions of their range and move into the Bering Sea (Lowry *et al.* 1998; Von Duyke *et al.* 2016; as cited in Ireland *et al.* (2016)).

Historically, the Colville and Sagavanirktok rivers deltas supported up 600 spotted seals; however, by the late 1900s, fewer than 20 seals were seen at either location (Johnson *et al.* 1999; as cited in Ireland *et al.* 2016)). Johnson *et al.* (1999) stated that while specific surveys for spotted seals were not conducted in 1998, known haulouts were checked opportunistically during aerial surveys for other species. An estimated 16 seals were hauled out on a small island in the East Channel off the mouth of the Kachemach River, on August 25, 1998. Four seals were observed hauled out at a consistently used site at the southwest end of Anachlik Island on September 14, 1998. In 1997, during eight aerial surveys, small groups of spotted seals were seen on four occasions, hauled out on sand spits or in adjacent shoals in these same two locations. Seals were not seen elsewhere on the delta, nor were any seen on or around the Jones Islands or Pingok Island in 1997 (Johnson *et al.* 1999).

In 2014, visual and passive acoustic monitoring was undertaken from August 25–September 30 in an approximately 30-km² survey area between the Spy Islands and Oliktok Point near Simpson Lagoon (*i.e.*, near the Colville River Delta) (Lomac-MacNair *et al.* 2018). An Inupiat hunter also conducted vessel-based visual surveys for spotted seal haulout sites in the area. A total of 90 marine mammals were observed during visual surveys including 40 spotted seals, five ringed seals, 28 seals identified as either spotted or ringed,

two bearded seals, and two beluga whales (Lomac-MacNair *et al.* 2018).

During oil exploration projects from 1996 to 2001, 12 spotted seals were positively identified near a seismic source vessel during open-water in the central Alaskan Beaufort Sea (Moulton and Lawson 2002; as cited in (Moulton *et al.* 2005)). Bisson *et al.* (2013) recorded 38 sightings of spotted seals during 2012 operations in the Beaufort Sea, and 46 spotted seal sightings were reported during barge operations between West Dock and Cape Simpson (Green *et al.* 2007; as cited in Ireland *et al.* (2016)). Most sightings occurred from WHB to Cape Simpson, with only one sighting occurring offshore of the Colville River Delta.

Sighting data indicate that spotted seals could be present in the project area during the summer months; however, we do not expect spotted seals to occur in the project area during the ice-covered portion of the project activities. Since spotted seals are not listed as threatened or endangered under the ESA, there is no designated critical habitat. No BIAs have been designated for spotted seals.

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 ~65 decibel (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 2.

TABLE 2—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, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	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; Southall *et al.* 2019. Additionally, animals are able to detect very loud sounds above and below that "generalized" hearing range.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2024) for a review of available information (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools>).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section 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 reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Background on Active Acoustic Sound Sources and Acoustic Terminology

This section contains a brief technical background on sound, the characteristics of certain sound types, and metrics used in this proposal inasmuch as the information is relevant to the specified activity and to the discussion of the effects of the specified activity on marine mammals in this

document. For general information on sound and its interaction with the marine environment, please see Au and Hastings (2008); Richardson *et al.* (1995); Urick (1983).

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the "loudness" of a sound and is typically described using the relative unit of the decibel. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (µPa)), and is a logarithmic unit that accounts for large variations in amplitude. Therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 µPa), while the received level is the SPL at the listener's position (referenced to 1 µPa).

Sound exposure level (SEL; represented as dB re 1 µPa2-s) represents the total energy in a stated frequency band over a stated time interval or event and considers both intensity and duration of exposure. The per-pulse SEL is calculated over the time window containing the entire pulse (*i.e.*, 100 percent of the acoustic energy). SEL is a cumulative metric; it can be accumulated over a single pulse, or calculated over periods containing multiple pulses. Cumulative SEL represents the total energy accumulated

by a receiver over a defined time window or during an event. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0–pk) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for sound produced by the shallow water hazard survey considered here. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound, which is defined as environmental background sound levels lacking a single source or point (Richardson *et al.*, 1995). The sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.*, wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.*, vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including wind and waves, which are a main source of naturally occurring ambient sound for frequencies between 200 hertz (Hz) and 50 kilohertz (kHz) (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Precipitation can become an important

component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times. Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz. Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, geophysical surveys, sonar, and explosions. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly.

The sum of the various natural and anthropogenic sound sources that comprise ambient sound at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.*, 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.*, Ward, 1997 in Southall *et al.*, 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts. The distinction between these two sound types is not always obvious, as certain signals share properties of both pulsed and non-pulsed sounds. A signal near a source could be categorized as a pulse, but due to propagation effects as it moves farther from the source, the signal duration becomes longer (*e.g.*, Greene and Richardson, 1988).

Pulsed sound sources (*e.g.*, airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or intermittent (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.*, rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Airgun arrays produce pulsed signals with energy in a frequency range from about 10–2,000 Hz, with most energy radiated at frequencies below 200 Hz. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.*, omnidirectional), but airgun arrays do possess some directionality due to different phase delays between guns in different directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

Potential Effects on Marine Mammals

The effects of sounds from airgun and sparker pulses may include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, and auditory injury (permanent) or temporary hearing impairment or non-auditory effects (Richardson *et al.*, 1995). The effects of noise on marine mammals are highly variable, often depending on species and contextual factors (based on Richardson *et al.*, 1995).

Tolerance: Numerous studies have shown that pulsed sounds from air guns are often readily detectable in the water

at distances of many kilometers. Numerous studies have also shown that marine mammals at distances more than a few kilometers from operating survey vessels often show no apparent response. That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. In general, pinnipeds and small odontocetes (toothed whales) seem to be more tolerant of exposure to air gun pulses than baleen whales. Although various toothed whales and, less frequently, pinnipeds have been shown to react behaviorally to airgun pulses under some conditions; at other times, mammals of both types have shown no overt reactions. Weir (2008) observed marine mammal responses to seismic pulses from a 24 airgun array firing a total volume of either 5,085 in³ or 3,147 in³ in Angolan waters between August 2004 and May 2005. Weir recorded a total of 207 sightings of humpback whales (*n* = 66), sperm whales (*n* = 124), and Atlantic spotted dolphins (*n* = 17) and reported that there were no significant differences in encounter rates (sightings/hr) for humpback and sperm whales according to the airgun array's operational status (*i.e.*, active versus silent).

Behavioral Disturbance: Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. These behavioral reactions are often shown as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.*, pinnipeds flushing into water from haulouts or rookeries).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification have the potential to be biologically significant if the change affects growth, survival, or reproduction. Examples of behavioral modifications that could impact growth, survival or reproduction include:

- Drastic changes in diving/surfacing/swimming patterns that could lead to stranding;
- Habitat abandonment (temporary or permanent) due to loss of desirable acoustic environment; and

- Disruption of feeding or social interaction resulting in significant energetic costs, inhibited breeding, or cow-calf separation.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Southall *et al.*, 2007).

Cerchio *et al.* (2014) used passive acoustic monitoring to document the presence of singing humpback whales off the coast of northern Angola and to opportunistically test for the effect of seismic survey activity on the number of singing whales. Two recording units were deployed between March and December 2008 in the offshore environment; numbers of singers were counted every hour. Generalized Additive Mixed Models were used to assess the effect of survey day (seasonality), hour (diel variation), moon phase, and received levels of noise (measured from a single pulse during each ten minute sampled period) on singer number. The number of singers significantly decreased with increasing received level of noise, suggesting that humpback whale communication was disrupted to some extent by the survey activity.

Castellote *et al.* (2012) reported acoustic and behavioral changes by fin whales in response to shipping and airgun noise. Acoustic features of fin whale song notes recorded in the Mediterranean Sea and northeast Atlantic Ocean were compared for areas with different shipping noise levels and traffic intensities and during an airgun survey. During the first 72 hours of the survey, a steady decrease in song received levels and bearings to singers indicated that whales moved away from the acoustic source and out of the study area. This displacement persisted for a time period well beyond the 10-day duration of airgun activity, providing evidence that fin whales may avoid an area for an extended period in the presence of increased noise. The authors hypothesize that fin whale acoustic communication is modified to compensate for increased background noise and that a sensitization process may play a role in the observed temporary displacement.

Seismic pulses at average received levels of 131 dB re 1 $\mu\text{Pa}^2\text{-s}$ caused blue whales to increase call production (Di Iorio and Clark, 2010). In contrast, McDonald *et al.* (1995) tracked a blue whale with seafloor seismometers and reported that it stopped vocalizing and changed its travel direction at a range of

10 km from the acoustic source vessel (estimated received level 143 dB pk-pk). Blackwell *et al.* (2013) found that bowhead whale call rates dropped significantly at onset of airgun use at sites with a median distance of 41–45 km from the survey. Blackwell *et al.* (2015) expanded this analysis to show that whales actually increased calling rates as soon as airgun signals were detectable before ultimately decreasing calling rates at higher received levels (*i.e.*, 10-minute cumulative sound exposure level (cSEL) of ~127 dB). Overall, these results suggest that bowhead whales may adjust their vocal output in an effort to compensate for noise before ceasing vocalization effort and ultimately deflecting from the acoustic source (Blackwell *et al.*, 2013, 2015). These studies demonstrate that even low levels of noise received far from the source can induce changes in vocalization and/or behavior for mysticetes.

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 airgun surveys (Malme *et al.*, 1984). Humpback whales showed avoidance behavior in the presence of an active airgun array during observational studies and controlled exposure experiments in western Australia (McCauley *et al.*, 2000a). 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.*, Bejder *et al.*, 2006; Teilmann *et al.*, 2006).

Stone (2015a) reported data from at-sea observations during 1,196 airgun surveys from 1994 to 2010. When large arrays of airguns (considered to be 500 in³ or more) were firing, lateral displacement, more localized avoidance, or other changes in behavior were evident for most odontocetes. However, significant responses to large arrays were found only for the minke whale and fin whale. Behavioral responses observed included changes in swimming or surfacing behavior, with indications that cetaceans remained

near the water surface at these times. Cetaceans were recorded as feeding less often when large arrays were active. Behavioral observations of gray whales during an airgun survey monitored whale movements and respirations pre-, during-, and post-seismic survey (Gailey *et al.*, 2016). Behavioral state and water depth were the best ‘natural’ predictors of whale movements and respiration and, after considering natural variation, none of the response variables were significantly associated with survey or vessel sounds.

Pinnipeds are not likely to show a strong avoidance reaction to the airgun sources proposed for use. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds and only slight (if any) changes in behavior. Monitoring work in the Alaskan Beaufort Sea during 1996–2001 provided considerable information regarding the behavior of Arctic ice seals exposed to seismic pulses (Harris *et al.*, 2001; Moulton and Lawson, 2002). These seismic projects usually involved arrays of 6 to 16 airguns with total volumes of 560 to 1,500 in³. The combined results suggest that some seals avoid the immediate area around seismic vessels. In most survey years, ringed seal sightings tended to be farther away from the seismic vessel when the airguns were operating than when they were not (Moulton and Lawson, 2002). However, these avoidance movements were relatively small, on the order of 100 m (328 ft) to a few hundreds of meters, and many seals remained within 100–200 m (328–656 ft) of the trackline as the operating airgun array passed by. Seal sighting rates at the water surface were lower during airgun array operations than during no-airgun periods in each survey year except 1997. Similarly, seals are often very tolerant of pulsed sounds from seal-scaring devices (Mate and Harvey, 1987; Jefferson and Curry, 1994; Richardson *et al.*, 1995a). However, initial telemetry work suggests that avoidance and other behavioral reactions by two other species of seals to small airgun sources may at times be stronger than evident to date from visual studies of pinniped reactions to airguns (Thompson *et al.*, 1998). Even if reactions of the species occurring in the present study area are as strong as those evident in the telemetry study, reactions are expected to be confined to relatively small distances and durations, with no long-term effects on pinniped individuals or populations.

Behavioral disturbance of marine mammals is the most likely acoustic effect expected from Narwhal’s single airgun and sparker operation during the

shallow water hazard survey. As described above, the effects would be temporary in nature and take during the seismic operation would likely only result in Level B harassment of cetaceans and pinnipeds.

Masking: Masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. Marine mammals are highly dependent on sound, and their ability to recognize sound signals amid other noise is important in communication; predator and prey detection; and, in the case of toothed whales, echolocation. Although some degree of masking is inevitable when high levels of human-made broadband sounds are introduced into the ocean, marine mammals have evolved systems and behaviors that function to reduce the impacts of masking. Structured signals, such as the echolocation click sequences of small, toothed whales, may be readily detected even in the presence of strong background noise because their frequency content and temporal features usually differ strongly from those of the background noise (Au and Moore 1988, 1990). The components of background noise that are similar in frequency to the sound signal in question primarily determine the degree of signal masking. Masking effects of underwater sounds from Narwhal's proposed activities on marine mammal calls and other natural sounds are anticipated to be limited. There is little concern regarding masking from the airgun in this case due to the brief duration of these pulses and relatively longer silence between airgun shots near the sound source.

Auditory Injury and Permanent Threshold Shift (PTS)—NMFS defines auditory injury 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). Available data from humans and other terrestrial mammals indicate that a 40-dB TS approximates PTS onset (Ward *et al.*, 1958, 1959; Ward, 1960; Kryter *et al.*, 1966; Miller, 1974; Ahroon *et al.*, 1996; Henderson *et al.*, 2008). PTS levels for marine mammals are estimates, as 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 largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS

are not typically pursued or authorized (NMFS, 2018).

Temporary Threshold Shift (TTS)—It's 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, 2018). Based on data from cetacean 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 (Schlundt *et al.*, 2000; Finneran *et al.*, 2000, 2002). As described in Finneran (2015), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level (SEL_{cum}) in an accelerating fashion. At low exposures with lower SEL_{cum}, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher SEL_{cum}, the growth curves become steeper and approach linear relationships with the noise SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in the Masking section, above). 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 (*Tursiops truncatus*), beluga whale, harbor porpoise, and Yangtze finless porpoise (*Neophocaena asiaeorientalis*) (Southall *et al.*, 2019). For pinnipeds in water, measurements of TTS are limited to harbor seals (*Phoca vitulina*), elephant seals (*Mirounga angustirostris*), bearded seals and California sea lions (*Zalophus californianus*) (Kastak *et al.*, 2007; Kastelein *et al.*, 2019b, 2019c, 2021, 2022a, 2022b; Reichmuth *et al.*, 2019; Sills *et al.*, 2020). TTS was not observed in spotted and ringed 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 threshold shift at various post-exposure times.

The amount and onset of TTS depends 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 echolocating animals (including odontocetes) might have anatomical specializations that might allow for conditioned hearing reduction and filtering of low-frequency ambient noise, including increased stiffness and control of middle ear structures and placement of inner ear structures (Ketten *et al.*, 2021). Data available on noise-induced hearing loss for mysticetes are currently lacking (NMFS, 2018). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species.

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 threshold shift approximates PTS onset (Kryter *et al.*, 1966; Miller, 1974), while a 6-dB threshold shift 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 sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level 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.

The single airgun and sparker source Narwhal proposes to use for this project is a mobile source being towed by a vessel moving approximately 2 m/second. Effects on marine mammals from the operation of the sparker are expected to be similar to the operation of the single airgun (*e.g.*, impulsive noise). When considering the impacts to marine mammals, the effects described above for airguns would be expected with sparkers. Also, the water depth where these surveys are expected to occur are shallow and animals are expected to only spend brief periods, if any, in the ensonified area. Given the

movement of the sound source and the fact that many marine mammals are likely moving through the project areas and not remaining for extended periods of time, the potential for PTS or TTS declines is unlikely.

Vessel Strike

Vessel collisions with marine mammals, or vessel strikes, can result in death or serious injury of the animal. These interactions are typically associated with large whales, which are less maneuverable than are smaller cetaceans or pinnipeds in relation to large vessels. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus, 2001; Laist *et al.*, 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.*, 2010; Gende *et al.*, 2011). The chances of a lethal injury decline from approximately 80 percent at 15 kn to approximately 20 percent at 8.6 kn. At speeds below 11.8 kn, the chances of lethal injury drop below 50 percent (Vanderlaan and Taggart, 2007).

Ship strikes generally involve commercial shipping, which is much more common in both space and time than is geophysical survey activity and barge transports which typically involves larger vessels moving at faster speeds. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.*, commercial shipping). Commercial fishing vessels were responsible for 3 percent of recorded collisions, while no such incidents were reported for geophysical survey vessels during that time period.

For vessels used in geophysical survey activities, vessel speed while towing gear is typically only 4–5 knots. At these speeds, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are so low as to be discountable. However, the likelihood of a strike actually happening is low given the smaller size of these vessels, generally slower speeds, and the coastal route vessels would take to the survey area. We anticipate that vessel collisions involving seismic data acquisition vessels towing gear, while not impossible, represent unlikely, unpredictable events for which there are no preventive measures. Given the required mitigation measures, the relatively slow speeds of vessels towing

gear, the presence of bridge crew watching for obstacles at all times (including marine mammals), the presence of protected species observers, and the small number of seismic survey cruises relative to commercial ship traffic, we believe that the possibility of ship strike is discountable and, further, that were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from ship strike is anticipated or proposed for authorization, and this potential effect of the specified activity will not be discussed further in the following analysis.

The potential effects of Narwhal's shallow hazards survey activity are expected to be limited to Level B harassment consisting of behavioral harassment and/or temporary auditory effects and, for bowhead whales and three species pinnipeds only. No permanent auditory effects for any species belonging to other hearing groups are expected.

Ice Trails

Ringed seals could be adversely affected by exposure to visual and acoustic disturbances during ice trail construction and operation. The majority of impacts are likely to occur from visual exposure by machinery and vehicles used for ice roads and ice trails construction and from human presence. The associated noise from the machinery and vehicles could also cause pinniped behavioral modification and temporary displacement within the vicinity of the action area if the noise levels are high enough. These activities are not expected to result in serious injury or mortality given the proposed mitigation measures (see Proposed Mitigation section) for construction and operation of the ice trails.

A series of reports from the Northstar development provide evidence of ringed seal reactions to human activity during ice road construction beginning in 1999. As summarized in Richardson and Williams (2000), approximately 6.6 km² (2.5 mi²) were surveyed for ringed seals prior to initiation of ice road construction activities. Though much of the ice was flat and not optimal for seal lairs, surveys were conducted by biologists and Inupiat hunters who used avalanche probes to identify potential breathing holes and lairs. No breathing holes or lairs were documented during this survey. A follow-up survey for ringed seal breathing holes and lairs was conducted in using trained dogs. The follow-up survey did locate at least two, possibly three, open breathing holes within the area previously surveyed.

The following year, a subsequent survey was undertaken using dog-based searches which found numerous seal structures within about 1 km (0.6 mi) of Northstar facilities before and after intensive construction activities in early and late winter. This may indicate that the survey method using avalanche probes and Inupiat hunters was not effective or that ringed seals were unaffected by ice road/trail construction to such extent that it prevented them from establishing breathing holes in the project area (Richardson and Williams 2000).

During two replicate aerial surveys conducted in 1999, ringed seals were observed within approximately 0.64 km (0.4 mi) of ice roads (Richardson and Williams 2000). These six seals were not assumed to be the only seals located within that 0.64 km (0.4 mi) area. Using seal densities in similar water depths approximately 4 to 10 km (about 2 to 6.2 mi) from the ice roads, about 12 ringed seals would be expected to occur within 0.64 km (0.4 mi), and 110 ringed seals within 4 km (2.5 mi), during 1999. Seal behavior within 0 to 0.64 km (0.4 mi) of the road may have been affected in some subtle way; however, the observation of seals within that area suggests that effects of the ice roads were minor and localized. As summarized in Williams *et al.* (2006), several factors influence the rate of abandonment of seal lairs, making it challenging to attribute abandonment to any specific factor. Of 181 seal structures located within 11 to 3,500 m of Northstar during surveys conducted in 2001, 118 (65 percent) were still actively used in late May (the end of ice road season).

The effect of underwater noise on ringed seals is dependent on the ability of the seal to perceive or hear the sounds. Due to the overall relatively low noise levels associated with the ice trails construction and that most of these noises are airborne, it is highly unlikely seals in the vicinity of the construction site would suffer hearing damages (*i.e.*, PTS or TTS). Temporary short-term changes in behavior or avoidance of the affected area as a result of disturbance is the most common response of marine mammals to increased noise levels (Richardson *et al.* 1995). Nonetheless, some minor disturbance due to in-air or underwater (ice-covered) conditions may occur as a result of ice trail activities. The types of impacts to ringed seals exposed to low-level noise may include masking and temporary displacement. Increased levels of natural and artificial sounds can disrupt behavior by masking. The masking of communication signals by anthropogenic noise may reduce the

communication space of animals (Clark *et al.* 2009). Factors other than received sound level such as the activity state of animals exposed can affect the probability of a behavioral response (Ellison *et al.* 2012).

Southall *et al.* (2007) assessed relevant studies, found considerable variability among pinnipeds, and determined exposures between approximately 90 and 140 dB generally do not induce strong behavioral responses of pinnipeds in water, but an increasing probability of avoidance and other behavioral effects exists in the 120 to 160 dB range. The use of the Ditchwitch to cut ice or from pumping at Northstar did not exceed 120 dB at 100 m (328 ft) (Greene *et al.* 2008). Despite the potential exposure to such noise levels, it is highly unlikely the disturbance would result in biologically significant effects on the seals (individually or to the population) as evident from Northstar research (Richardson and Williams 2000). In addition, Kelly *et al.* (1986) report that some ringed seals temporarily departed their lairs when sound sources were within 97 to 3,000 m (0.06 to 1.9 mi) but did return to their lairs later. Haul outs with and without disturbance were not significantly different, and time spent in the water versus hauled out was not significantly different.

Displacement of seals from ice trail construction is considered unlikely but could occur. As described in Williams *et al.* (2006), during three surveys conducted in November/December, March and May of 2001 during Northstar construction activities, 181 ringed seal structures were located and 118 (65 percent) were still actively used by late May 2001. Active ringed seal structures appeared to be evenly distributed across the Northstar study area in relation to the facility. The noise heard through snow and ice, and into the subnivean lair or den location of the animal should be considerably weaker than at source due to sound being attenuated in the ice and snow. In March 2002, sounds and vibrations from vehicles traveling along an ice road along Flaxman Island (a barrier Island east of Prudhoe Bay) were recorded in artificially constructed polar bear dens. Sounds were attenuated strongly by the snow cover of the artificial dens; broadband vehicle traffic noise was reduced by 30–42 dB. Due to attenuation of noise through ice and snow, it is less likely that seals in lairs would be exposed to levels exceeding 120 dB re 1 μ Pa underwater and that such exposure would result in displacement.

In air noise associated with ice trail activities is not expected to cause disturbance to ringed seals, as construction noise is not likely to exceed 100 dB re 20 μ Pa at the source. During the winter of 2000, background unweighted in air noise levels from various machineries measured in the vicinity of Northstar ranged from 59 to 84 dB re 20 μ Pa, and this background noise level was related to wind speed (Greene *et al.* 2008). Similar levels were reported during the winter of 2001 and 2002 by Blackwell *et al.* (2004a, b) with minimum background unweighted in air noise levels of 44 to 52 dB re 20 μ Pa measured in ice-covered conditions with low wind up to 10 km (6 mi) from Northstar in Prudhoe Bay. As a result of the expected low levels, in air noise during Narwhal's construction and operation of the sea ice trails is not expected to result in harassment of seals.

The probability that acoustic noise associated with ice trail construction would result in masking any acoustic signals of ringed seals during construction is very low. Ice trail construction activities would be initiated prior to March 1st when animals begin constructing dens prior to pupping and during pupping when seals are minimally vocal in the dens to prevent predation (Ireland *et al.* 2016). The probability that the noise producing activities associated with Narwhal's proposed project would result in masking acoustic signals important to the behavior and survival of marine mammal species in the project area is low.

Potential Effects on Marine Mammal Habitat

Experimental studies have shown that sounds from non-explosive survey devices, such as airguns, are generally not lethal to fish (Sharp 2011). The characteristics of airgun sounds are such that the zone of potential injury to fish and invertebrates would be limited to a few meters from the source (Buchanan *et al.* 2004, Sharp 2011). Adult fish near seismic operations are likely to avoid the immediate vicinity of the sound source and thus avoid injury. Sound pulses at levels of 180 dB have been documented to cause noticeable changes in behavior (Pearson *et al.* 1992). While underwater sounds from airgun survey activities may reach these levels, the areas ensonified to 160 dB are not expected to exceed 3,188 m from the source and would be temporary (*i.e.*, up to 12 hours per day over an intermittent period of 30 days). The operation of the sparker would be expected to have similar potential habitat effects as use of

the airgun, but over a smaller area. Underwater sound levels from seismic activities in WHB are not expected to result in measurable effects to prey fish species populations.

The proposed vibracoring would minimally and briefly impact physical habitat features, such as substrates and/or water quality. Vibracoring would be used to obtain shallow cores of the seafloor sediment within the footprint of the winter exploratory drilling location, the few samples collected would be expected to have only a slight, temporary effect on benthic habitat. Vibracoring would occur over a very short duration at each of the drilling site. Therefore, impacts on habitat from proposed activities during open-water activities would be limited to potential impacts on prey species of bowhead whales and ice seals.

The construction and maintenance of ice trails is not expected to cause significant impacts on habitat used by ringed seals or on their food sources. Landfast ice near the shoreline is the best habitat for ringed seal pupping (Kelly 1988), with water depth strongly dictating whether ringed seals overwinter in a given area. Depths greater than about 3 m (10 ft) are typically the minimum depth suitable for successful lair construction (Miller *et al.* 1998, Link *et al.* 1999) although more shallow areas with open leads or cracks can be attractive to seals as described for the ice trail across the Colville River Delta.

While ringed seals may be present in the proposed project areas during winter, the number of seals is generally expected to be relatively low during ice trail activities. Ice trail construction would be a short-term activity expected to result in minor disruptions to habitat. Ringed seals feed on fish and a variety of benthic species including crabs and shrimp. There should be no impact on the distribution of fish or zooplankton as a result of ice trail construction within the proposed project areas. The trails melt each year and do not affect water circulation, substrate, fish presence or use of the area, or benthic populations.

Disturbance associated with construction, operation and maintenance of ice trails is unlikely to have long-term effects on the availability of sea ice habitat identified in the critical habitat features 1 and 2. Disturbances due to ice trail construction and maintenance activities are not expected to have any effect on critical habitat feature 3, because these activities would not cause injury or mortality to fish species, nor would it displace food resources of ringed seals.

NMFS does not expect impacts to marine mammal habitat, including prey, from the proposed activities of Narwhal in west Harrison Bay.

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 both 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 only, in the form of disruption of behavioral patterns and/or TTS for individual marine mammals resulting from exposure to noise resulting from use of airguns and sparkers (*i.e.*, geophysical survey) and the construction and operation of ice trails. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.*, shutdown zones and ice trails specific measures) discussed in detail below in the Proposed Mitigation section, Level A harassment (auditory injury) is neither anticipated nor proposed to be authorized.

As described previously, no serious injury or mortality is anticipated or proposed to be authorized for these activities. Below we describe how the proposed take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (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 Thresholds

NMFS recommends the use of acoustic thresholds 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 auditory injury 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 recommends use of 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 root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μ Pa)) for continuous (*e.g.*, vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 μ Pa for non-explosive impulsive (*e.g.*, seismic airguns) or intermittent (*e.g.*, scientific sonar) sources. Generally speaking, Level B harassment take estimates 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.

Narwhal's proposed activities include the use of impulsive (single airgun and sparker) sources, and therefore, the RMS SPL threshold of 160 dB re 1 μ Pa is applicable. Narwhal's proposed activities also include the use of construction equipment while building ice trails, which would produce continuous sounds, for which use of the RMS SPL threshold of 120 dB re 1 μ Pa is applicable. However, as noted in the Marine Mammal Effects section, that threshold is not expected to be met for the construction equipment that will be used by Narwhal and, in general, disturbance of seals due to ice trails activities may be attributable broadly to

a suite of potential sources of disturbance, including acoustic or visual disturbance.

Level A harassment—NMFS' Updated Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 3.0) (NMFS, 2024) identifies dual criteria to assess Auditory Injury (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). Narwhal's proposed activity includes the use of impulsive (*i.e.*, single airgun and sparker) sources, and no take of marine mammals is expected

to result from exposure to continuous noise produced by Narwhal's activities (*e.g.*, ice trail construction).

The 2024 Updated Technical Guidance criteria include both updated thresholds and updated weighting functions for each hearing group. The thresholds are provided in table 3. The references, analysis, and methodology used in the development of the criteria 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 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	AUD INJ Onset Thresholds* (Received Level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{p,0-pk,flat}$: 222 dB; $L_{E,p,LF,24h}$: 183 dB	Cell 2: $L_{E,p,LF,24h}$: 197 dB.
High-Frequency (HF) Cetaceans	Cell 3: $L_{p,0-pk,flat}$: 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: $L_{p,0-pk,flat}$: 202 dB; $L_{E,p,VHF,24h}$: 159 dB	Cell 6: $L_{E,p,VHF,24h}$: 181 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{p,0-pk,flat}$: 223 dB; $L_{E,p,PW,24h}$: 183 dB	Cell 8: $L_{E,p,PW,24h}$: 195 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{p,0-pk,flat}$: 230 dB; $L_{E,p,OW,24h}$: 185 dB	Cell 10: $L_{E,p,OW,24h}$: 199 dB.
IN-AIR		
Phocid Pinnipeds (PA)	Cell 11: $L_{p,0-pk,flat}$: 162 dB; $L_{E,p,PA,24h}$: 140 dB	Cell 12: $L_{E,p,PA,24h}$: 154 dB.
Otariid Pinnipeds (OA)	Cell 13: $L_{p,0-pk,flat}$: 177 dB; $L_{E,p,OA,24h}$: 163 dB	Cell 14: $L_{E,p,OA,24h}$: 177 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 sound pressure level thresholds associated with impulsive sounds, these thresholds are recommended for consideration.

Note: Peak sound pressure level ($L_{p,0-pk}$) has a reference value of 1 μ Pa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1 μ Pa²s. In this table, thresholds are abbreviated to be more reflective of International Organization 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 sound exposure level 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 sound exposure level 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.

Ensonified Area for the Single Airgun

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.

Sound propagation and the distances to the sound isopleths for marine

mammal hearing groups are defined by NMFS for Level A harassment of marine mammals under the 2024 Technical Acoustic Guidance. To assess the potential for exposure to underwater sounds that might exceed relevant threshold criteria during seismic surveys, Narwhal conducted noise modeling of the single 105 cu. in. (1,721 cc) airgun at a proposed survey site to

determine sound source levels that are shown in table 4 based on Gundalf Designer software, which is a seismic source modelling software package that may be used to estimate source levels of active acoustic sources. The estimated distances discussed in this section are used for estimating potential exposures to noise exceeding relevant harassment criteria.

TABLE 4—ESTIMATED UNDERWATER SOUND SOURCE LEVELS FOR THE SINGLE AIRGUN

Source level type (measured at site 10)	Source levels
Peak sound pressure level (Pk SPL) (dB re 1 μ Pa @ 1 m)	231
Root-mean-square sound pressure level (rms SPL) (dB re 1 μ Pa @ 1 m with a 90%-energy pulse duration of 12.5 milliseconds)	204
Sound exposure level (SEL) (dB re μ Pa ² s @ 1 m)	193

Estimated Level A harassment zone distances were modeled for the single

105-cu. in. (1,721 cc) airgun, which is an impulsive, mobile source. Estimated

distances to Level A harassment thresholds for weighted SEL_{24hr} are

presented here and in greater detail in Appendix B of the Narwhal application. Shallow hazard surveys will be conducted one site at a time. Each survey block is approximately 2,400 m (7,874 ft) by 2,400 m in area. The airgun will fire every 12.5 m (41 ft) along a track line (*i.e.*, every 6 or 7 seconds traveling at a speed of 2 m/s). Therefore, there will be an estimated 192 shots per track line. The area of ensonification for the seismic survey was calculated by multiplying the estimated distances (in km) to the harassment thresholds by the distance of the seismic track line (in km) to be surveyed each day. A single track line is approximately 2 km (1 mi) in length, which will take approximately 20 minutes to shoot assuming a vessel speed of 2 m/s. In a 24-hour period, assuming no delays, the survey team will be able to collect data for approximately 10 km within a site over a period of 12 hours.

Level A harassment zones were calculated using the source levels modeled from the Gundalf software. A fluid parabolic equation modelling algorithm (RAMGeo) was used to calculate the propagation of noise from the airgun source. The noise source was assumed to be omnidirectional and modelled as a point source. Only low frequency acoustic energy (<1 kHz *e.g.*, single airgun) was modeled. Greater detail on the modeling methods used by Narwhal are available in Section 6.2.3.1 and Appendix B of Narwhal's application. Modeling results estimated Level A harassment zone distances for LF cetaceans as 1,076 m (3,530 ft) and for phocids as 322 m (1,056 ft) from the seismic source vessel while the airgun is operating.

The following equation is used to estimate the ensonified area:

$$\text{Mobile Ensonification Area (km}^2\text{)} \\ \text{Equation} = \text{Distance} * (2 * \text{Threshold} \\ \text{Value}/1000) + (\text{Pi} * (\text{Threshold} \\ \text{Value}/1000)^2)$$

Following the same process, with additional procedures described in Appendix B of Narwhal's application to convert modeled SEL values to RMS SPLs, Narwhal estimated the distance to the 160 dB re 1 μ Pa Level B harassment threshold to be 3,188 m (10,459 ft). Narwhal then used the mobile ensonification equation above to calculate the total area of the Level B harassment, which resulted in an area of 337.98 km² (210 mi²). It should be noted that since the study area is in close proximity to shore, some sound is likely to be truncated by land to a certain extent.

Ensonified Area for the Sparker

Using data from Crocker and Fratantonio (2016), NMFS estimated source levels for the sparker to be 213 db RMS while operating at 1000 joules of energy across 240 active tips.

Take by Level A harassment is not expected during the use of the sparker given the small injury zone sizes expected with the sparker use and likelihood that marine mammals will avoid the sound source before incurring auditory injury. Using the source levels above, NMFS calculated the estimated distance to the 160 dB re 1 μ Pa Level B harassment threshold to be 447 m (1,467 ft). NMFS then used the same mobile ensonification equation to calculate the total area of the Level B harassment zone which resulted in an area of 43.54 km² (27 mi²).

Disturbance Area for the Ice Trails on the Colville River Delta

Ringed seals are the only marine mammal expected to be present in the project area during winter activities. To estimate incidents of disturbance that may constitute a take, the total area of potential disturbance (*i.e.*, ice trails) associated with construction and maintenance of specific portions of the coastal sea ice trail are included in the estimate. As noted in the Description of Marine Mammals in the Area of Specified Activities section, ground sea ice (occurring >3 m of water depth) is not considered suitable habitat for ringed seals. The coastal sea ice trail will be on grounded ice; however, the Colville River Delta is included in the take estimate to account for the possibility that ringed seals may occur in that section of the route given the potential for open leads or cracks in the sea ice, which could provide habitat for ringed seals. For the offshore sea ice trails/roads in west Harrison Bay, water depths at planned pad locations are less than 3 m (average); therefore, the majority of ice trails/roads in west Harrison Bay will be on grounded ice or limited portions of floating ice in water depths between 1.6 m (5 ft) and 3 m (10 ft) and not expected to provide suitable ringed seal habitat.

The width of the coastal sea ice trail across the Colville River Delta is defined as 170 m (558 ft) on either side of the ice trail centerline, or a total width of 340 m (1,115 ft). The total width (340 m or 0.34 km (.21 mi)) is then multiplied by the portion of the total length of trail/roads transiting ringed seal habitat, as described above. The linear distance of the coastal sea ice trail across the Colville River Delta is 57.8 km (36 mi). To calculate the potential

exposure area, linear distance is multiplied by the total width (*i.e.*, 57.8 km * 0.34 km = 19.65 km² (12.2 mi²). The calculated area of disturbance (19.65 km²) is applied to activity associated with Narwhal's construction, operation, and demobilization phases.

Marine Mammal Density Estimates

In this section, we provide information about the occurrence of marine mammals, including density or other relevant information that will inform the take calculations.

Narwhal and NMFS used a variety of data sources to estimate appropriate marine mammal densities for evaluation of potential take incidental to the proposed activities. Neither NMFS nor Narwhal relied on data available from Cañadas *et al.* 2020 (Duke University Arctic Study Area Models; see <https://seamap.env.duke.edu/models/Duke/Arctic/>). For bowhead whales, more recent data (through 2021) is available in the ASAMM dataset, opposed to the Arctic Study Area Models where data through 2019 was used. For bearded seal, estimates of density are available but, as noted in Cañadas *et al.* (2020), there is a high degree of observer bias, which leads to uncertainty in species identification and, therefore, uncertainty in model outputs and resultant densities. Therefore, data from previous, site-specific vessel surveys (Funk *et al.* 2010) provide the best estimates of species proportions in Harrison Bay during the open water period. Neither spotted seal nor ringed seal density estimates are available from Cañadas *et al.* (2020).

Bowhead Whale

Bowhead whale sighting data from ASAMM aerial survey Block 3, which includes Harrison Bay, for the period 2012–2021 were used to estimate bowhead density near the project area. For reference, Harrison Bay is approximately 250 km² relative to the larger total area of ASAMM survey Block 3. Harrison Bay also is not preferred habitat of bowhead whales given the lack of observations from within the bay as noted above in the Description of Marine Mammals in the Area of Specified Activities Section. Therefore, the density estimates presented here could be slightly higher than would be expected in the project area. Densities were calculated by Narwhal using a two-step approach. First, a sighting rate is calculated based on whales per km, then transect length (km) is multiplied by the effective strip width of the transect using the modeled effective strip width for bowhead whales observed during aerial surveys

conducted from an Aero Commander airplane (1.15 km (CV = 0.08)) (Ferguson and Clarke 2013). Therefore, whales per km² = whales per km/(2*1.15 km). For survey Block 3, the average density estimate in summer is 0.009 bowhead whales per km² (table 5). The average

fall density was calculated at 0.017 bowhead whales per km²; however, since the shallow water hazard survey work is proposed to be completed in the summer, NMFS used the summer density for calculating take estimates.

As noted in the Description of Marine Mammals in the Area of Specified Activities section, we do not expect bowhead whales to be present during Narwhal's winter or spring activities.

TABLE 5—BOWHEAD WHALE SIGHTING DATA FROM 2012 THROUGH 2020 AND RESULTING DENSITIES

Survey year	Survey time period	On transect distance (km)	Bowhead whale sightings on transect	Bowhead whales per km	Bowhead whales per km ²
2012 Summer	Jul–Aug	1,742	1	0.001	0.004
2012 Fall	Sep–Oct	1,388	26	0.019	0.083
2013 Summer	Jul–Aug	950	8	0.009	0.0039
2013 Fall	Sep–Oct	1,217	7	0.006	0.0026
2014 Summer	Jul–Aug	1,290	0	0.000	0.000
2014 Fall	Sep–Oct	1,927	1	0.001	0.0004
2015 Summer	Jul–Aug	1,570	0	0.000	0.000
2015 Fall	Sep–Oct	1,949	66	0.034	0.0148
2016 Summer	Jul–Aug	1,845	259	0.141	0.0613
2016 Fall	Sep–Oct	1,959	61	0.032	0.0139
2017 Summer	Jul–Aug	2,188	6	0.003	0.0013
2017 Fall	Sep–Oct	2,269	35	0.016	0.0070
2018 Summer	Jul–Aug	2,049	7	0.004	0.0017
2018 Fall	Sep–Oct	2,390	32	0.014	0.0061
2019 Summer	Jul–Aug	2,822	7	0.003	0.0013
2019 Fall	Sep–Oct	3,853	8	0.003	0.0013
2020 Fall	Sep–Oct	654	32	0.049	0.0213
2021 Fall	Sep–Oct	1,637	58	0.035	0.0154
Summer Average .....	.....	.....	.....	.....	0.009
Fall Average .....	.....	.....	.....	.....	0.017

Bearded and Spotted Seals

Spring aerial surveys conducted as part of industry monitoring for the Northstar production facility provide limited sighting numbers of bearded seals from 1999–2002 (Richardson and Williams, 2002 and 2003). Given the lack of bearded seal data in Harrison Bay, NMFS reviewed survey data from Funk *et al.* (2010). This information represents a compilation of monitoring data gathered during vessel-based seismic operations in the Beaufort Sea from 2006–2008. NMFS considers this the best available data to derive a density estimate for bearded seals and spotted seals (see below). This survey observed ringed seals, bearded seals, spotted seals, ribbon seals, and some unidentified seals. Narwhal proposed to base the percentage of seals present in the survey area as a percentage of the total identified seals and multiplying that percentage by the ringed seal summer/fall density. The density that Narwhal proposed in their application was 0.03 bearded seals/km². NMFS expects that relying on this method to calculate the percentage of bearded and spotted seals may result in underestimation of potential seal occurrence.

Therefore, NMFS modified this approach and calculated the bearded

seal percentage as a proportion of the observed ringed seals in the Funk *et al.* (2010) survey. NMFS took this approach because the bearded seal density was being derived from the ringed seal summer/fall density, and such does not utilize the best available scientific information and likely underestimates the potential for bearded seal take. Percentages calculated using NMFS method are found in table 6 and differ from the Narwhal application. Based on this ratio NMFS expects that the bearded seal density would be 21.3 percent of the summer/fall ringed seal density ($0.213 * 0.32 = 0.07$ bearded seals/km²).

Similar to the method used for bearded seals, NMFS derived the density of spotted seals by first determining the ratio of the number spotted seals observed to the number of ringed seals observed from Funk *et al.* (2010) (table 6). Based on this ratio, NMFS expects that the spotted seal density would be 34.8 percent of the summer/fall ringed seal density ($0.348 * 0.32 = 0.11$ spotted seals/km²).

TABLE 6—BEARDED SEAL AND SPOTTED SEAL RATIOS BASED ON THE OBSERVED RINGED SEALS FROM FUNK *ET AL.* (2010)

Species	Percentage of ringed seal
Bearded Seal	21.3
Spotted Seal	34.8

Ringed Seal

Winter/Spring Density—Narwhal originally proposed in their application the use of data from a number of on-ice surveys and aerial surveys for ringed seal density estimates for on-ice periods. These included site-specific surveys for ringed seals along the Beaufort Sea coast that were conducted in association with industry activities in the late 1980s and continued into the 2020s (Kelly *et al.* 1986; Frost and Burns 1989; Frost and Lowry 1987; Richardson and Williams 2001, 2002, and 2004; Frost *et al.* 2004; Moulton *et al.* 2005; and Quakenbush *et al.* 2022 and 2023). Several of these studies estimated approximate seal densities by considering the detection by trained dogs of seal structures such as breathing holes, haulout lairs, or pupping lairs. Aerial surveys were also included in the density estimate that

was completed in the spring of the year. Narwhal proposed a ringed seal density estimate for the winter/spring season of 0.49 seals/km² (see table 6–3 in Narwhal’s application).

However, NMFS determined that a different approach to use of these data for calculating the ringed seal density would be more appropriate, as several of the papers used by Narwhal included inconsistent correction factors for seal abundance (Quakenbush 2022 and 2023), some of the data Narwhal proposed for use was approximately 40 years old, and because NMFS assumed that aerial surveys provide a more

accurate density calculation than on-ice surveys given they are actual seal counts rather than counts of potential seal structures. NMFS relied only on spring aerial surveys conducted in 1997–2002 (Moulton *et al.* 2005) and 1996–1999 (Frost *et al.* 2004), which included a broad section of the total survey area. Densities reported by Moulton *et al.* (2005) were lower than those estimated by Frost *et al.* (2004) for that same area: 0.43 vs. 0.73 seals/km² in 1997, 0.39 vs. 0.64 seals/km² in 1998, and 0.63 vs. 0.87 seals/km² in 1999. Narwhal had noted that the differences in density were mainly because of differences in

ice composition (fast ice vs. pack ice) between Frost *et al.* (2004) and Moulton *et al.* (2005). Since these observed densities are for the same area and years, NMFS does not believe the higher observed densities reported by Frost *et al.* (2004) are due to differences in the composition of sea ice surveyed between the two studies. Further, Frost *et al.* (2004) noted that the two studies were similar in timing and methods. For these reasons, NMFS calculated an average density (without trimming to calculate the average density) of 0.63 seals/km² using these two data sources (table 7).

TABLE 7—RINGED SEAL AERIAL SURVEY DENSITIES FOR WINTER/SPRING

Source	Year	Observed density (seals/km ²)
Moulton <i>et al.</i> (2005)	1997	0.43
Moulton <i>et al.</i> (2005)	1998	0.39
Moulton <i>et al.</i> (2005)	1999	0.63
Moulton <i>et al.</i> (2005)	2000	0.47
Moulton <i>et al.</i> (2005)	2001	0.54
Moulton <i>et al.</i> (2005)	2002	0.83
Frost <i>et al.</i> (2004)	1996	0.81
Frost <i>et al.</i> (2004)	1997	0.73
Frost <i>et al.</i> (2004)	1998	0.64
Frost <i>et al.</i> (2004)	1999	0.87
Average .....	.....	0.63

Summer/Fall Density—Hauser *et al.* (2008) summarized sighting data from a 2008 seismic survey (inside and outside the barrier islands) near Thetis Island north and east of the action area. Hauser *et al.* (2008) found that most seal sightings were observed in waters seaward of the barrier islands (~76 percent of 38 sightings). Sightings of ringed seals in the shallow waters shoreward of the barrier islands were substantially lower. Narwhal’s action area is most similar to what Hauser *et al.* (2008) defined as shallow waters. Hauser *et al.* (2008) reported a seal density for all species combined of 0.11 seals/km² for shallow waters during open-water conditions.

While this average seal density based on actual observations do not reflect seals that may not have been visible to observers, several publications acknowledge that during open-water months, ringed seals are more abundant farther offshore (Harwood and Stirling 1992, Kelly *et al.* 2010b, McLaren 1958, Von Duyke *et al.* 2020). For example, 1999 aerial surveys conducted over 8 days near Prudhoe Bay reported that the density of seals visible near shore decreased compared to the density

offshore (Richardson and Williams 2000b). Narwhal estimated a summer density for ringed seals by using a 50 percent conversion factor of the winter/spring densities (table 8). NMFS agrees with this methodology and estimated the summer/fall density to be 0.32 seals/km² (*i.e.*, 50 percent of 0.63 seals/km² the winter/spring density).

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.

For all marine mammal species, NMFS does not expect or propose to authorize take by Level A harassment during any activities. Narwhal proposes to implement an 1,100 m (3,608 ft) shutdown zone for LF cetaceans and a 350 m (1,148 ft) shutdown zone for phocids during the operation of the single 105 cu. in. (1,721 cc) airgun. These zones are larger than the respective Level A harassment zones and therefore, would reduce the already low likelihood of take by Level A harassment. Take by Level A

harassment is unlikely because Narwhal would shutdown the single airgun before a marine mammal would enter the Level A harassment zone. Take by Level A harassment is also unlikely because animals will avoid the area of active acoustic sources.

Summer/Fall Take Estimates—As described above, the estimated Level B harassment area for the seismic airgun is 337.98 km² and for the sparker 43.54 km². Given that the Level B harassment zone of 447 m for the sparker, it is expected that Narwhal would implement a shutdown zone of 500 m for bowhead whales and no take of bowhead whales would occur during sparker use. Similar to the single airgun, Narwhal would shutdown the sparker before a marine mammal would enter the Level A harassment zone and therefore prevent take by Level A harassment. This area was used to determine the number of take based on the densities of marine mammals as described above multiplied by the number of days (*i.e.*, 12 days of seismic survey and sparker use) of activity. NMFS expects the number of take for each species as outlined in table 8.

TABLE 8—ESTIMATED LEVEL B HARASSMENT OF MARINE MAMMALS DURING SHALLOW HAZARD SURVEY ACTIVITY

Species	Density (animal/km ²)	Ensonified area of the airgun (km ²)	Ensonified area of the sparker (km ²)	Days of activity	Total take estimate by Level B harassment
Bowhead Whale	0.009	337.98	N/A for take calculation	12	37
Ringed Seal	0.320	337.98	43.54	12	1,465
Bearded Seal	0.070	337.98	43.54	12	320
Spotted Seal	0.110	337.98	43.54	12	504

Winter/Spring Take Estimate—NMFS estimated the take estimates based on the total construction and operation area that would be affected during the winter period. As discussed previously, the

total potential disturbance area of the Colville River Delta sea ice trail is estimated to be 19.65 km. NMFS multiplied the area of the sea ice trail with the winter/spring density of ringed

seals for the construction, operation, and demobilization activities to determine the total number of potential takes by Level B harassment for ringed seals (table 9).

TABLE 9—ESTIMATED LEVEL B HARASSMENT OF RINGED SEALS DURING COLVILLE RIVER DELTA COASTAL SEA ICE TRAIL ACTIVITIES

Sea ice trail activity	Area of disturbance (km ²)	Density (animal/km ²)	Days of activity	Total take estimate by Level B harassment
Construction	19.65	0.63	25	300
Operation	19.65	0.63	40	480
Demobilization	19.65	0.63	22	264
Total .....	.....	.....	.....	1,044

The total number of take estimated for Narwhal's specified activity is available in table 10.

TABLE 10—SUMMARY OF ALL MARINE MAMMAL EXPOSURES REQUESTED BY SPECIES

Species	Stock	Total take by Level B harassment during the shallow water hazard survey	Total take by Level B harassment during ice trail construction and operation	Total take by Level B harassment	Population estimate	Take as a percentage of the population
Bowhead Whale	Western Artic	37	0	37	15,277	0.2
Ringed Seals	Arctic	1,465	1,044	2,509	^a 342,836	0.7
Bearded Seals	Beringia	320	0	320	^b 301,836	0.1
Spotted Seals	Bering	504	0	504	461,625	0.1

^aConn *et al.* (2014) calculated an abundance estimate of 171,418 using a subset of aerial survey data collected in 2012 by Moreland *et al.* (2013) that covered the entire ice-covered portions of the Bering Sea. This estimate is consider to be low and was multiplied by a factor of two (Young *et al.* 2023).

^bConn *et al.* (2014), using a sub-sample of the data collected from the U.S. portion of the Bering Sea in 2012, calculated an abundance estimate of 301,836 bearded seals (Young *et al.* 2023).

Potential Effects of Specified Activities on Subsistence Uses of Marine Mammals

The availability of the affected marine mammal stocks or species for subsistence uses may be impacted by this activity. The subsistence uses that may be affected and the potential impacts of the activity on those uses are described below. Measures included in this IHA to reduce the impacts of the activity on subsistence uses are described in the Proposed Mitigation

section. Last, the information from this section and the Proposed Mitigation section is analyzed to determine whether the necessary findings may be made in the Unmitigable Adverse Impact Analysis and Determination section.

The communities of Nuiqsut, Utqiagvik and Kaktovik engage in subsistence harvests off the North Slope of Alaska. Alaska Native communities have harvested bowhead whales for subsistence and cultural purposes with oversight and quotas regulated by the

International Whaling Commission (IWC). The NSB Department of Wildlife Management has been conducting bowhead whale subsistence harvest research since the early 1980's to collect the data needed by the IWC to set harvest quotas. Impacts to bowhead whales and ice seals would include limited, temporary behavioral disturbances only. Level A harassment, serious injury, or mortality of marine mammals is not anticipated from the proposed activities, and the activities are not expected to have any impacts on

reproductive or survival rates of any marine mammal species at any of the locations where subsistence harvest is occurring.

These communities also engage in subsistence harvest of beluga and gray whales. NMFS is not proposing to authorize take of these species in this IHA (see Description of Marine Mammals in the Area of Specified Activities section), and therefore, the specified activities are not expected to affect the availability to access belugas and gray whales for subsistence use. Additional information on subsistence harvest of these species is included below. Most of the Beaufort Sea population of beluga whales migrate from the Bering Sea into the Beaufort Sea in April or May. The spring migration routes through ice leads are similar to those of the bowhead whale. Fall migration through the western Beaufort Sea is in September or October. Surveys of the fall distribution strongly indicate that most belugas migrate offshore along the pack ice front beyond the reach of subsistence harvesters. Beluga whales are harvested opportunistically during the bowhead harvest and throughout ice-free months. No beluga whale harvests were reported in 2006 survey interviews conducted by Stephen R. Braund & Associates (SRBA) in any community (SRBA 2010). Beluga harvests were also not reported in Nuiqsut and Kaktovik, although households did report using beluga whale, likely through sharing from other communities (Brown *et al.*, 2016). Gray whale harvests were not reported by any of the communities surveyed by ADF&G in any of the survey years.

Nuiqsut

The proposed oil and gas exploration activities would occur closest to the marine subsistence use area used by the Native Village of Nuiqsut. Nuiqsut is located on the west bank of the Nechelik Channel on the lower Colville River, about 25 mi (40 km) from the Arctic Ocean and approximately 150 mi (242 km) southeast of Utqiagvik. Nuiqsut subsistence hunters utilize an extensive search area, across the central Arctic Slope (Brown *et al.*, 2016). Marine mammal hunting is primarily concentrated in two areas: (1) Harrison Bay, between Atigaru Point and Oliktok Point, including a northward extent of approximately 50 mi (80 km) beyond the Colville River Delta (Brown *et al.*, 2016); and (2) east of the Colville River Delta between Prudhoe and Foggy Island bays, which includes an area of approximately 100 square mi surrounding the Midway Islands,

McClure Island and Cross Island (Brown *et al.*, 2016).

Ringed, spotted and bearded seals are also harvested by the community of Nuiqsut. Seal hunting typically begins in April and May with the onset of warmer temperatures. Many residents continue to hunt seals after spring breakup as well (Brown *et al.*, 2016). The most important seal hunting area for Nuiqsut hunters is off the Colville Delta, an area extending as far west as Fish Creek and as far east as Pingok Island. Seal hunting search areas by Nuiqsut hunters also include Harrison Bay, and a 30-mi (48-km) stretch northeast of Nuiqsut between the Colville and Kuparuk rivers, near Simpson Lagoon and Jones Islands (Brown *et al.*, 2016). Cross Island is a productive area for seals, but is too far from Nuiqsut to be used on a regular basis.

Nuiqsut residents commonly harvest ringed seal in the Beaufort Sea during the summer months (SRBA 2010). There are a higher number of use areas extending east and west of the Colville River delta. Residents reported traveling as far as Cape Halkett to the west and Camden Bay to the east in search of ringed seal. Survey respondents reported traveling offshore up to 30 mi (48 km; SRBA 2010). Residents reported hunting ringed seals throughout the late spring, summer, and early fall with a higher number of use areas reported in June, July, and August (SRBA 2010). In 2006, 12 people (36 percent of survey respondents) indicated that they had recently hunted for ringed seals in Nuiqsut (SRBA 2010).

Nuiqsut bearded seal hunting areas extend as far west as Cape Halkett, as far east as Camden Bay, and offshore up to 40 mi (64 km). In 2006, 12 people (69 percent of survey respondents) indicated that they had recently hunted for bearded seals in Nuiqsut (SRBA 2010). Nuiqsut hunters reported hunting bearded seal during the summer season in open water as the seals are following the ice pack. Residents reported hunting bearded seal between June and September, although a small number of use areas were reportedly used in May and October (SRBA 2010). The number of reported bearded seal use areas peak in July and August, when the majority of seals are available along the ice pack (SRBA 2010).

Nuiqsut's bowhead whale hunt occurs in the fall at Cross Island, a barrier island located approximately 90 mi (144 km) east of west Harrison Bay. Nuiqsut whalers base their activities from Cross Island (Galginaitis 2014), and the whaling search and the harvest areas typically are concentrated north of the

island. Hunting activities between 1997 and 2006 occurred almost as far west as Thetis Island, as far east as Barter Island (Kaktovik), and up to approximately 50 mi (80 km) offshore (SRBA 2010). Harvest locations in 1973–2011 and GPS tracks of 2001–2020 whaling efforts are shown in figure 4–7 of Narwhal's application.

Bowhead whales are harvested by Nuiqsut whalers during the fall whaling season. Nuiqsut residents typically hunt bowhead whales in September, although a small number of use areas were reported in August and extending into October (SRBA 2010). While seismic operations would occur during Nuiqsut whaling season, the proposed project area is at a distance that would not affect whaling operations. The distance to whaling grounds used by Nuiqsut residents is approximately 100 mi (155 km) east of the project area and further than expected acoustic effects of the shallow hazard survey.

Nuiqsut subsistence hunting crews operating from Cross Island have typically harvested three to four bowhead whales per year (Bacon *et al.*, 2009; Galginaitis 2014; Suydam *et al.*, 2020). In 2014, the AEWC allocated Nuiqsut a quota of four bowhead whales each year; however, through transfers of quota from other communities, in 2015 Nuiqsut was able to harvest five whales (Brown *et al.*, 2016). In 2006, 10 people (30 percent of survey respondents) in Nuiqsut indicated that they had recently hunted for bowhead whales (SRBA 2010). In 2016, Nuiqsut whaling crews harvested four bowhead whales (Suydam *et al.*, 2017). In 2019, Nuiqsut whaling crews harvested three bowhead whales (Suydam *et al.*, 2020).

Narwhal plans to sign a Conflict Avoidance Agreement (CAA) with Nuiqsut to reduce any impacts to Nuiqsut whaling season (see Proposed Mitigation section). Narwhal has consulted with AEWC and NSB on mitigation measures to limit impacts and has continued to provide formal and informal project updates to these groups, as recently as April 2025.

The proposed activities are not expected to impact marine mammals in numbers or locations that would affect the availability for subsistence harvest given the short-term, temporary, and localized nature of seismic operations and ice trials construction, and the proposed mitigation measures. Impacts to marine mammals would mostly include limited, temporary behavioral disturbances of bowhead whales and seals. Serious injury or mortality of marine mammals is not anticipated from the proposed activities, and the activities are not expected to have any

impacts on reproductive or survival rates of any marine mammal species.

In summary, impacts to subsistence hunting are not expected due to the distance between Narwhal activities and primary seal hunting areas and proposed mitigation for subsistence activities below during the Nuiqsut bowhead whale hunt.

Utqiagvik

Utqiagvik (formerly known as Barrow) is the northernmost community on the North Slope and the United States and is approximately 179.6 km (111.6 mi) northwest of Harrison Bay. According to Brown *et al.* (2016), 71 percent of households reported using marine mammals as a resource. Of the marine mammals harvested, bowhead whale made up the largest composition of marine mammals harvested at 54 percent by weight while bearded seals represented 30 percent, ringed seals 2 percent, and beluga whale 2 percent of total marine mammal weight harvested (Brown *et al.*, 2016). Bowhead whale was reported as a resource used in 70 percent of households, bearded seal in 44 percent of households, ringed seal in 19 percent of households, beluga whale in 15 percent of households, and spotted seals in 5 percent.

The spring hunt of bowhead whales occurs while bowheads are making their migration east toward the eastern Beaufort Sea. Crews begin to camp on the ice in mid- to late-April and stay out on the edge of the ice for about 2–6 weeks, depending on the condition of the ice (Brown *et al.*, 2016). During the fall bowhead migration west, crews travel on open boat, making day trips from the community. During the summer months of July and August, bearded seals and ringed seals are targeted offshore near ice floes (Brown *et al.*, 2016).

The community of Utqiagvik's subsistence activities occur outside of the specified geographical region. We do not expect impacts to Utqiagvik's subsistence activities, and they are not discussed further beyond the explanation provided here. Impacts to marine mammals from the planned oil and gas exploratory activities would mostly include limited, temporary behavioral disturbances of seals. Additionally, a small number of takes of bowhead whales, by Level B harassment only, are predicted to occur in the vicinity of Narwhal's activity. Even if some subset of taken individuals deflected farther offshore near the project site, it is reasonable to predict that most individuals would likely resume a more typical migration path by the time they reach the Utqiagvik

hunting area, and therefore, significant impacts to the Utqiagvik hunt would be unlikely.

The planned activities and associated harassment of marine mammals are not expected to impact marine mammals in numbers or locations sufficient to render them unavailable for Utqiagvik subsistence harvest given the short-term, temporary, and localized nature of survey and ice trail construction and operation activities and the planned mitigation measures. Additionally, no serious injury or mortality of marine mammals is expected or proposed for authorization.

Kaktovik

Kaktovik is the easternmost village in the NSB. Kaktovik is located on the north shore of Barter Island, situated between the Okpilak and Jago rivers on the Beaufort Sea coast. Kaktovik's subsistence-harvest areas are to the east of the project area and target marine mammal species migrating eastward during spring and summer. This migration occurs seaward of the project area and westward in the fall.

Kaktovik bowhead whale hunters reported traveling between Camden Bay to the west and Nuvagapak Lagoon to the east (SRBA 2010). This range does not include the project area impacted by the activities analyzed for this proposed IHA. The small number of takes of bowhead whales, by Level B harassment only, predicted to occur in the vicinity of Narwhal's activity are not expected to have any impacts on the fitness of any bowhead whales. Further, we do not expect Narwhal's activities to deflect the bowhead whale migration offshore in the Kaktovik hunting area, given the distance from the western extent of the hunting area (Camden Bay) to Narwhal's proposed project area. Even if some subset of taken individuals deflected farther offshore near the project area, it is reasonable to predict that most individuals would likely resume a more typical migration path by the time they reach the Kaktovik hunting area during the eastbound migration, and during the westbound migration, a bowhead exposed to project noise would have already passed the hunting area prior to exposure. Significant impacts to the Kaktovik hunt would be unlikely, and Kaktovik bowhead whale hunting is not discussed further.

Ringed, spotted and bearded seals are harvested by the community of Kaktovik. Residents hunt seals in rivers during ice-free months, primarily July–August. Ringed seals are an important subsistence resource for Alaska Natives living in communities along the Beaufort Sea coast. Kaktovik hunters

travel by boat to look for ringed seals on floating ice (often while also hunting for bearded seal) or sometimes along the ice edge by snow machine before break-up during the spring (SRBA 2010). In 2006, 7 people (18 percent of survey respondents) indicated that they had recently hunted for ringed seals in Kaktovik (SRBA 2010). Residents reported looking for ringed seal, usually while also searching for bearded seal, offshore between Prudhoe Bay to the west and Demarcation Bay to the east (SRBA 2010). Ringed seal hunting typically peaks between March and August but continues into September (SRBA 2010). Although residents reported hunting ringed seals up to approximately 30 mi (48 km) from shore, the most overlapping use areas generally occur within a few miles from shore (SRBA 2010). Harvest of ringed seals by Kaktovik hunters does not typically occur to the west of Prudhoe Bay and therefore, is not expected to be affected by Narwhal's proposed activities. Additionally, impacts to ringed seals are expected to include temporary behavioral disturbances only. Level A harassment, serious injury, or mortality of ringed seals is not anticipated from the proposed activities, and the activities are not expected to have any impacts on ringed seal reproductive or survival rates, or to impact availability of ringed seals. Therefore, Narwhal's proposed activities are not expected to impact Kaktovik ringed seal harvests.

Kaktovik bearded seal hunting occurs along the coast as far west as Prudhoe Bay and as far east as the United States/Canada border (SRBA 2010). Residents reported looking for bearded seal as far as approximately 30 mi (48 km) from shore but generally hunt them closer to shore, up to 5 mi (8 km; SRBA 2010). Between 1994 and 2003, 29 bearded seals were taken in Kaktovik. In 2006, 7 people (18 percent of survey respondents) indicated that they had recently hunted for bearded seals in Kaktovik (SRBA 2010). Bearded seal hunting activities, like ringed seal, begin in March, peaking in July and August, and then conclude in September (SRBA 2010). Kaktovik hunters harvested 126 pounds (57.15 kilograms) of spotted seals in 1992 (ADF&G Community Subsistence Information System; retrieved and analyzed August 15, 2018). Spotted seals were not reported harvested in 2006 survey interviews conducted in Nuiqsut (SRBA 2010).

The community of Kaktovik is approximately 200 (direct) mi (320 km) from the proposed project in west Harrison Bay; subsistence activities for these communities occur outside of the

project area and associated Level A and Level B harassment zones. The proposed oil and gas exploration would occur in west Harrison Bay, which is in an area that is not typically used for subsistence hunting by residents of Kaktovik.

Because of the distance from Kaktovik, it is unlikely that the planned activities would have any effects on the use of marine mammals for subsistence by residents of Kaktovik. Further, the proposed activities are not expected to impact marine mammals in numbers or locations sufficient to render them unavailable for subsistence harvest given the short-term, temporary, and localized nature of project activities, and the proposed mitigation measures. Therefore, we do not discuss Kaktovik's subsistence activities further.

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. NMFS regulations require applicants for incidental take authorizations 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, as well as subsistence uses. 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.

Mitigation for Shallow Water Hazard Surveys

Vessels used during the surveys will not allow lines to remain in the water unless both ends are under tension and affixed to vessels or gear. No materials capable of becoming entangled around marine mammals will be discarded into marine waters.

Vessel-Visual Based Mitigation Monitoring—Visual monitoring requires the use of trained observers (herein referred to as visual protected species observers (PSOs)) to scan the ocean surface visually for the presence of marine mammals. PSOs shall establish and monitor a pre-start clearance zone (shutdown zones in table 11) and, to the extent practicable, a Level B harassment zone (table 11). These zones shall be based upon the radial distance from the edges of the acoustic source (rather than being based around the vessel itself). The shutdown zones are based off the size of the Level A harassment zone with slightly larger areas to ensure shutdown before the animal enters the harassment zone. During pre-start clearance (*i.e.*, before ramp-up begins), the pre-start clearance zone is the area in which observations of marine mammals within the zone would prevent airgun and sparker operations from beginning (*i.e.*, ramp-up). The pre-start clearance zone would encompass the shutdown zones.

During survey operations (*e.g.*, any day on which use of the acoustic source is planned to occur, and whenever the acoustic source is in the water, whether activated or not), a minimum of two PSOs during the operation of the airgun and a minimum of one PSO during the operation of the sparker must be on duty and conducting visual observations at all times during daylight hours (*i.e.*, from 30 minutes prior to sunrise through 30 minutes following sunset). Visual monitoring must begin no less than 15 minutes prior to use of the acoustic source and must continue until 1 hour after use of the acoustic source ceases or until 30 minutes past sunset. Visual PSO(s) must coordinate to ensure 360 degree visual coverage around the vessel from the most appropriate observation posts, and must conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

Any observations of marine mammals by crew members shall be relayed to the PSO team. During good conditions (*e.g.*,

daylight hours, Beaufort sea state (BSS) 3 or less), visual PSOs shall conduct observations when the acoustic source is not operating for comparison of sightings rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.

Visual PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 1 hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period.

Pre-Start Clearance and Ramp-Up—A ramp-up procedure, involving a gradual increase in source level output, is not required for use of the airgun but would be required at the start of the activation of the sparker when technically feasible. Operators should ramp up sparker source to half power for 5 minutes and then proceed to full power. A 15-minute pre-start clearance observation period must occur prior to the start of ramp-up. The intent of pre-start clearance observation (15 minutes) is to ensure no marine mammals are within the shutdown zones prior to the beginning of ramp-up. The intent of ramp-up is to warn marine mammals of pending operations and to allow sufficient time for those animals to leave the immediate vicinity. A 15 minute pre-start clearance period is proposed for all species for this project due to the quick succession of track lines and in general the shallow water of the project area. All sound source operators must adhere to the following pre-start clearance and ramp-up requirements:

- The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up in order to allow the PSOs time to monitor the shutdown zones for 15 minutes prior to the initiation of ramp-up (pre-start clearance). During this 15 minute pre-start clearance period, the entire applicable shutdown zones must be visible, except as indicated in below.

- Source use shall be scheduled so as to minimize the time spent with the source activated prior to the start of acquisition.

- A visual PSO conducting pre-start clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.

- Any PSO on duty has the authority to delay the start of survey operations if a protected species is detected within the applicable pre-start clearance zone.

- The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that mitigation commands are conveyed swiftly while allowing PSOs to maintain watch.

- Ramp-up may not be initiated if any marine mammal is within the applicable shutdown zone. If a marine mammal is observed within the applicable shutdown zone during the 15 minute pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (15 minutes for all marine mammals).

- PSOs must monitor the shutdown zones 15 minutes before and during ramp-up, and ramp-up must cease and the source must be shut down upon

observation of a marine mammal within the applicable shutdown zone.

- Ramp-up may occur at times of poor visibility, including nighttime, if appropriate visual monitoring has occurred with no detections of protected species in the 15 minutes prior to beginning ramp-up.

- If the acoustic source is shut down for brief periods (*i.e.*, less than 30 minutes) for reasons other than implementation of prescribed mitigation (*e.g.*, mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual observation and no detections of protected species have occurred within the applicable shutdown zone. For any longer shutdown, pre-start clearance observation and ramp-up are required.

Shutdown Procedures

Any PSO on duty will have the authority to call for shutdown of the

acoustic sources, as appropriate. The operator must also establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic sources to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. Narwhal must implement shutdown if a marine mammal species for which take was not authorized or a species for which authorization was granted but the authorized takes have been met approaches the Level B harassment zone. If the seismic activity is halted due to the presence of a marine mammal, the activity may not resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone indicated in table 11, or 15 minutes have passed without re-detection of any marine mammal.

TABLE 11—SHUTDOWN ZONES AND LEVEL B HARASSMENT ZONES FOR EACH ACTIVITY

Activity	Shutdown zone radius (m)		Level B harassment zone radius (m)
	Low-frequency cetaceans	Phocid pinnipeds	
Single Airgun	1,100	350	3,188
Sparker	500	N/A	447

Vessel Strike Avoidance

Crew and supply vessel personnel should use an appropriate reference guide that includes identifying information on all marine mammals and other marine aquatic protected species that may be encountered. Vessel operators must comply with the below measures except under extraordinary circumstances when the safety of the vessel or crew is in doubt or the safety of life at sea is in question.

- Vessel operators and crews must maintain a vigilant watch for all protected species and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any protected species. A single protected species at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should always be exercised. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (species-specific distances detailed below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.*, PSOs) or crew members, but crew members responsible for these duties must be provided sufficient

training to (1) distinguish protected species from other phenomena and (2) broadly to identify a marine mammal as a whale, seal, or other marine mammals.

- Vessel speed within west Harrison Bay must generally be restricted to 15 knots (kn) or less, must be reduced to 5 kn if within 300 yds (274 m) of a whale and must be reduced to 10 kn or less when weather conditions reduce visibility to 1.6 km or less;

- All vessels must maintain a minimum separation distance of 100 m from bowhead whales. If a bowhead whale is sighted within the relevant separation distance, the vessel must steer a course away at 10 knots or less until the 100-m separation distance has been established.

- All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 100 yds (91 m) from all other marine mammals, with an understanding that at times this may not be possible (*e.g.*, for animals that approach the vessel), and;

- When protected species are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.*, attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction

until the animal has left the area, reduce speed and shift the engine to neutral). This does not apply to any vessel towing gear or any vessel that is navigationally constrained

Mitigation for the Sea Ice Trail Crossing the Colville River Delta

Unless otherwise noted, these measures apply to ringed seals and the portion of the sea ice trail crossing the Colville River Delta. Take is only expected for this section of trail because this is the only suitable ringed seal habitat the ice trails will cross. These mitigation measures are organized into the following categories: (1) general mitigation measures (implemented throughout the ice trail season, which occurs generally from December through May) and (2) mitigation measures that begin after March 1st.

General Ice Trail Mitigation Measures

Ice trail mitigation measures are based on the following assumptions: ice trail construction occurs from approximately December 1st to mid-February (or as soon as sea ice conditions allow safe access and permit such activity); operations and maintenance generally occur from approximately mid-January through mid- to late May. Ringed seals

begin to establish birth lairs in late March. Therefore, ice trail construction should be initiated no later than March 1st (*i.e.*, surface-disturbing activities such as clearing or packing of snow or grading to be completed for the full spatial extent of the ice trails prior to March 1st) to reduce the potential for disturbance to ringed seal birth lairs/dens; and disturbance associated with construction prior to March 1st may deter pregnant seals from establishing birth lairs in the disturbed areas.

The following mitigation measures will be implemented throughout the entire ice trail season, including during construction, maintenance, active use, and decommissioning:

- Personnel shall not approach or interact with any wildlife.
- Personnel must follow directions of Security and posted signs when traveling the ice trail.
- Workers must notify appropriate personnel if a seal is observed within 50 meters, or if a seal structure (*i.e.*, breathing hole or lair) is observed within 150 m, of the centerline of the ice trail.
- Workers must stay in the vehicle and continue traveling at a constant speed if a seal is observed near the trail. Do not slow down, stop, or exit the vehicle.
- Transport vehicles (passenger vehicles and trucks hauling goods) will not stop within 50 m (164 ft) of observed seals or 150 m (about 500 ft) of known seal lairs. Instead, they will continue travelling at a constant speed.
- Ice trail speed limits will be 45 miles per hour (mph) or less, based on environmental, road conditions, and ice trail longevity considerations.
- Delineators will mark the roadway in a minimum of ¼-mile increments on both sides of the portions of ice trails in west Harrison Bay to delineate the path of vehicle travel and areas of planned on-ice activities (*e.g.*, emergency response exercises). Delineators may also be used to mark the centerline of the roadway.
- Corners of rig mats, steel plates, and other materials used to bridge sections of hazardous ice will be clearly marked or mapped using GPS coordinates of the locations.
- Any seal structures (*i.e.*, breathing holes and lairs) observed will be avoided by a minimum of 150 meters (about 500 feet) during ice testing and new trail construction and their locations will be reported and physically marked.
- Personnel will be instructed that approaching or interacting with seals is prohibited.

- If a seal is observed within 50 meters (164 feet) or if a seal structure (*i.e.*, breathing hole or lair) is detected within 150 meters (about 500 feet) of the centerline of an ice trail, the project proponent's Environmental Specialist or Project Manager will be informed of the observation, who will then carry out the notification protocol and implement the procedures described in the General Monitoring Measures for Ice Trails section (below). The following procedures will also be followed:

- The location of the seal or seal structure will be physically marked (*e.g.*, at its position along the axis of the ice trail) by placing a readily visible marker (*e.g.*, pole and flag) within 15 meters (50 feet) of the edge of the ice trail, while maintaining a distance of at least 15 meters (50 feet) from the seal/seal structure.

- Construction, maintenance, or decommissioning work will not occur within 50 meters (164 feet) of the seal, but may proceed as soon as the seal, of its own accord, moves farther than 50 meters distance away from the activities or has not been observed within that area for at least 24 hours. Transport vehicles may continue their route within the designated trail if they can do so without stopping.

- During the period in which a seal structure is periodically monitored as described in the General Monitoring Measures for Ice Trails section (below), maintenance work will proceed in a manner that minimizes impacts or disturbance to the area.

Ice Trail Mitigation Measures That Begin After March 1st

After March 1st and continuing until decommissioning of ice trails is completed, on-ice activities can occur anywhere on sea ice where water depth is less than 3 meters (10 feet) (*i.e.*, habitat less suitable for ringed seal lairs and breathing holes). However, after March 1st on those sections of the ice trails where water depth is greater than 3 meters (10 feet), all activities will occur within the boundaries of the driving lane or shoulder area of the ice trail and other previously disturbed areas (*e.g.*, spill and emergency response areas, snow push areas), as long as personnel safety is ensured.

- If safety concerns due to unstable ice trail conditions warrant the creation of workaround route after March 1st, the route will be surveyed for seal structures using a trained observer in a tracked vehicle approximately 2 days prior to establishing the route, weather permitting. Surveys must occur following improved weather conditions before establishing the workaround

route. The following protocol will be used for these surveys:

- During daylight hours with good visibility, a trained wildlife observer will survey the route 2 days prior to route construction to search for potential seal structures. The observer will be dedicated to monitoring for seal structures while the driver operates the tracked vehicle. Ringed seal structures will be avoided by a minimum of 150 m during ice testing and new route construction.

- If a suspected seal structure is observed within 150 m of either edge of the proposed new or workaround route, a marker will be placed 15 m from the location and GPS coordinates will be recorded. The new route must avoid any suspected seal structures by a 150 m distance.

- Ice trail construction and maintenance activities will remain at least 50 meters (164 feet) from a seal and 150 meters (about 500 feet) from a known seal structure (*i.e.*, breathing hole or lair) except under emergency conditions when blading or snow blowing is necessary. If snow blowing must occur within 50 meters (164 feet) of a seal or 150 meters (about 500 feet) of a seal structure, the snow will first be pushed so that it can subsequently be blown downwind of the animal or seal structure.

Mitigation Measures for Aircraft

- Except during takeoff and landing and in emergency situations, all aircraft will transit at an altitude of at least 457 meters (1,500 feet) while maintaining Federal Aviation Administration flight rules (*e.g.*, avoidance of cloud ceiling, *etc.*). If flights must occur at altitudes less than 457 meters (1,500 feet), aircraft will make course adjustments, as needed, to maintain at least a 457 meters (1,500 feet) horizontal separation from all observed marine mammals.

- Aircraft will not hover or circle over marine mammals.

- Aircraft will not land on ice within 1 nautical mile (1.9 kilometers) of hauled-out seals.

Mitigation for Subsistence Uses of Marine Mammals or Plan of Cooperation

Regulations at 50 CFR 216.104(a)(12) further require IHA applicants conducting activities in or near a traditional Arctic subsistence hunting area and/or that may affect the availability of a species or stock of marine mammals for Arctic subsistence uses to provide a Plan of Cooperation (POC) or information that identifies what measures have been taken and/or will be taken to minimize adverse

effects on the availability of marine mammals for subsistence purposes. A plan must include the following:

- A statement that the applicant has notified and provided the affected subsistence community with a draft plan of cooperation;
- A schedule for meeting with the affected subsistence communities to discuss proposed activities and to resolve potential conflicts regarding any aspects of either the operation or the plan of cooperation;
- A description of what measures the applicant has taken and/or will take to ensure that proposed activities will not interfere with subsistence whaling or sealing; and
- What plans the applicant has to continue to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation.

After withdrawing its original request, Narwhal resubmitted its application on November 1, 2024, which included a draft POC for NMFS. The POC outlines Narwhal's extensive coordination with subsistence communities that may be affected by the oil and gas exploration project. It includes a brief description of the project, community outreach that has already been conducted, as well as the concerns raised in those discussions and how they were addressed, and project mitigation measures. Narwhal has agreed to continue coordination with subsistence communities throughout the project duration and maintain constant communication with subsistence groups, as described below and in the POC. The POC is a living document and has been updated during the proposed IHA process. The proposed IHA includes a requirement stating that Narwhal must conduct the communication and coordination as described in the POC, which is available on our website at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>.

Narwhal continues to document its communications with the North Slope subsistence communities, as well as the substance of its communications with subsistence stakeholder groups, and Narwhal will continue to routinely engage with local communities and subsistence groups. Multiple user groups are often consulted simultaneously as part of larger coalition meetings such as the AEWC and Ice Seal Committee meetings. Local communities and subsistence groups identified by Narwhal are listed in Section 5 of the POC. Narwhal has

developed an POC and will implement this plan before initiating construction operations to coordinate activities with local subsistence users and stakeholders to eliminate the risk of interfering with subsistence hunting activities and keep current as to the timing and status of the bowhead whale hunt and other subsistence hunts. Narwhal will utilize in person, video conferencing, telephonic, written, and email communication formats depending upon stakeholder representative locations, schedule availability, meeting location preferences and other factors. All stakeholder engagement activities and communications will be documented in the Narwhal Stakeholder Communication Log. The proposed IHA requires that Narwhal must coordinate with local subsistence communities, notify the communities of any changes in the operation, and take action to avoid or mitigate impacts to subsistence harvests.

The AEWC works annually with industry partners to develop a CAA. This agreement implements mitigation measures that allow industry to conduct their work in or transiting the vicinity of active subsistence hunters, in areas where subsistence hunters anticipate hunting, or in areas that are in sufficient proximity to areas expected to be used for subsistence hunting where the planned activities could potentially adversely affect the subsistence bowhead whale hunt through effects on bowhead whales, while maintaining the availability of bowheads for subsistence hunters. Narwhal has stated that they will enter the CAA for the project year.

Narwhal will continue to coordinate with Alaska Native villages and subsistence organizations to identify and avoid potential impacts to subsistence hunting.

As described above in the Potential Effects of Specified Activities on Subsistence Uses of Marine Mammals section, Narwhals activities do not overlap with the areas where subsistence hunters typically harvest ice seals and given the extent of impacts to seals described in that section, these activities are not expected to impact subsistence hunts of ice seals. Therefore, NMFS does not propose to include mitigation measures for subsistence harvest of ice seals; however, Narwhal will continue to meet with subsistence groups, including the Ice Seal Committee, as described in its POC.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, 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, and on the availability of such species or stock for subsistence uses.

Proposed Monitoring and Reporting

In order 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 both 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;
- How 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.

PSO Requirements for Shallow Water Hazard Surveys

Vessel-Based Visual Monitoring

As described above, PSO observations would take place during daytime airgun operations. During shallow water hazard survey operations, two visual PSOs would be on duty at all times during daytime hours. The operator will work with the selected third-party observer provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals. Narwhal must use dedicated, trained, and NMFS-approved PSOs. At least one visual PSO aboard the vessel must have a minimum of 90 days at-sea experience working in those roles, respectively, with no more than 18 months elapsed since the conclusion of the at-sea experience. One visual PSO with such experience shall be designated as the lead for the entire protected species observation team. The lead PSO shall serve as primary point of contact for the vessel operator and ensure all PSO requirements per the IHA are met. To the maximum extent practicable, the experienced PSOs should be scheduled to be on duty with those PSOs with appropriate training but who have not yet gained relevant experience. The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval. Monitoring shall be conducted in accordance with the following requirements:

- PSOs shall have successfully completed an approved PSO training course appropriate for their designated task.
- NMFS must review and approve PSO resumes accompanied by a relevant training course information packet that includes the name and qualifications (*i.e.*, experience, training completed, or educational background) of the instructor(s), the course outline or syllabus, and course reference material as well as a document stating successful completion of the course.
- PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program.
- PSOs must have successfully attained a bachelor's degree from an accredited college or university with a

major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics.

- The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Requests shall be granted or denied (with justification) by NMFS within 1 week of receipt of submitted information. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored protected species surveys; (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties; or (4) PSOs may also substitute Alaska native traditional knowledge for experience.

Sea Ice Trails Observer/Environmental Specialist Requirements

- Qualified observers for ice trail monitoring activities need not be trained PSOs, but they will have received the training described in the Wildlife Training in this section. In addition, they will be capable of detecting, observing, and monitoring ringed seal presence and behaviors, and accurately and completely recording data.
- Prior to initiation of sea ice trail construction activities, project personnel associated with ice trail construction, maintenance, or use (*i.e.*, construction workers, surveyors, vehicle operators, security personnel, and the environmental team) will receive annual training on seal avoidance mitigation measures appropriate for the work that they will perform (*e.g.*, ice trail maintenance). The annual training for all such personnel will include reviewing applicable portions of Narwhal's Wildlife Interaction Plan, which include the following measures:
 - In addition to reviewing the mitigation measures, wildlife training for personnel involved in ice trail construction/maintenance or seal monitoring will include:
 - how to identify ringed seal adults and pups;
 - seal life history;
 - habitat and diet;
 - presence in project area;
 - importance of lairs, breathing holes, and basking;
 - potential effects of disturbance; and

- applicable laws and regulatory requirements.

Monitoring for Shallow Water Hazard Surveys

During the operation of the single airgun, one PSO will conduct monitoring duties from the source vessel and a second PSO will conduct monitoring from a support vessel. PSOs must record all observations of marine mammals, regardless of distance from the single airgun or sparker, as well as the additional data as required in the proposed reporting requirements.

Monitoring During Ice Trail Construction and Operation

If a seal is observed within 50 meters (164 feet) or if a seal structure (*i.e.*, breathing hole or lair) is observed within 150 meters (about 500 feet) of the centerline of the ice trail the location of the seal or seal structure will be reported to the Environmental Specialist or Project Manager, who will then relay the observation location information to all personnel using the ice trail.

- As soon as practicable after the initial seal observation, the Environmental Specialist or qualified observer will observe the seal for approximately 15 minutes to document the animal's location relative to the trail.
- Qualified observers for ice trail monitoring activities need not be trained PSOs, but they will have received the training described in the sea ice trails observer/environmental specialist requirements section above. In addition, they will be capable of detecting, observing, and monitoring ringed seal presence and behaviors, and accurately and completely recording data.
- All work that is occurring when the seal is observed and the behavior of the seal during this observation period will be documented for an initial 15 minute observation period and every six hours thereafter during daylight hours until the animal moves more than 50 meters (164 feet) from the center of the road/trail or is no longer observed.

- If a ringed seal breathing hole or lair is observed within 150 m of the sea ice trail within the Colville River Delta, the location of the structure will be documented to the extent possible from the sea ice trail using GPS and reported to the Narwhal Permitting and Compliance Manager.

- At least one ATV driver from a traveling group will monitor the breathing hole/lair from the trail for 15 minutes in daylight conditions on the day of the initial sighting to determine whether a ringed seal is present; and

○ Observations by an ATV driver for a seal near the breathing hole/lair will occur for 15 minutes each day while the trail is traveled unless it is determined the structure is not actively being used (*i.e.*, a seal is not sighted at that location during monitoring).

Monitoring measures that begin after March 1st:

- If an ice trail is being actively used, under daylight conditions with good visibility, a dedicated observer (not the vehicle operator) must conduct a survey along the sea ice trail to observe if any ringed seals are within 150 m (500 ft) of the roadway corridor. The following survey protocol must be implemented:

- Surveys will be conducted every other day during daylight hours. Survey protocol consists of driving the ice trail and stopping every ½ mile to observe the area within 150 meters (about 500 feet) of the roadway corridor for approximately 5 minutes on each side of the corridor to check for the presence of seals or structures.

- When performing observations, qualified observers will have no other primary duty than to watch for and report observations related to ringed seals during this survey. If the observer is driving a vehicle, then the survey will be performed when the driver stops, at periodic intervals sufficient to complete a thorough assessment of the area, given visibility conditions. If weather conditions become unsafe, the monitoring activity will be discontinued.

Narwhal will engage subsistence hunters for monitoring recommendations:

- Narwhal will engage local hunters through the Ice Seal Committee point of contact to gather recommendations on methods for ringed seal detection within the exposure areas along the Colville River Delta; and

- Narwhal will incorporate recommendations, as appropriate, into training materials provided to personnel responsible for monitoring for ringed seals along the sea ice trail.

Narwhal is required to submit a draft report on all monitoring conducted under the IHA within 90 calendar days of the completion of marine mammal monitoring or 60 days prior to the issuance of any subsequent IHA for this project, whichever comes first. A final report shall be prepared and submitted within 30 days following resolution of comments on the draft report from NMFS. This report shall include:

For Shallow Water Hazard Surveys: For data collection purposes, PSOs must use standardized electronic data collection forms. PSOs shall record detailed information about any

implementation of mitigation requirements, including the distance of animals to the airgun array and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the airgun array. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

- Vessel name, vessel size and type, maximum speed capability of vessel;
- Dates (MM/DD/YYYY) of departures and returns to port with port name;

- PSO names and affiliations, PSO ID (initials or other identifier);

- Date (MM/DD/YYYY) and participants of PSO briefings;

- Visual monitoring equipment used (description);

- PSO location on vessel and height (meters) of observation location above water surface;

- Watch status (description);

- Dates (MM/DD/YYYY) and times (Greenwich Mean Time (GMC)/Coordinated Universal Time (UTC)) of survey on/off effort and times (GMC/UTC) corresponding with PSO on/off effort;

- Vessel location (decimal degrees) when survey effort began and ended and vessel location at beginning and end of visual PSO duty shifts;

- Vessel location (decimal degrees) at 30-second intervals if obtainable from data collection software, otherwise at practical regular interval;

- Vessel heading (compass heading) and speed (knots) at beginning and end of visual PSO duty shifts and upon any change;

- Water depth (meters) (if obtainable from data collection software);

- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions changed significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;

- Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions changed (description) (*e.g.*, vessel traffic, equipment malfunctions); and

- Vessel/Survey activity information (and changes thereof) (description), such as airgun power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes

of significance (*i.e.*, pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, *etc.*).

- Upon visual observation of any marine mammals, the following information must be recorded:

- Sighting ID (numeric);

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

- Location of PSO/observer (description);

- Vessel activity at the time of the sighting (*e.g.*, deploying, recovering, testing, shooting, data acquisition, other);

- PSO who sighted the animal/ID;
- Time/date of sighting (GMT/UTC, MM/DD/YYYY);

- Initial detection method (description);

- Sighting cue (description);

- Vessel location at time of sighting (decimal degrees);

- Water depth (meters);

- Direction of vessel's travel (compass direction);

- Speed (knots) of the vessel from which the observation was made;

- Direction of animal's travel relative to the vessel (description, compass heading);

- Bearing to sighting (degrees);

- Identification of the animal (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified) and the composition of the group if there is a mix of species;

- Species reliability (an indicator of confidence in identification) (1 = unsure/possible, 2 = probable, 3 = definite/sure, 9 = unknown/not recorded);

- Estimated distance to the animal (meters) and method of estimating distance;

- Estimated number of animals (high/low/best) (numeric);

- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, *etc.*);

- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

- Detailed behavior observations (*e.g.*, number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);

- Animal's closest point of approach (meters) and/or closest distance from any element of the airgun array;

- Description of any actions implemented in response to the sighting

(e.g., delays, shutdown, ramp-up) and time and location of the action;

- Photos (Yes/No);
 - Photo Frame Numbers (List of numbers); and
 - Conditions at time of sighting (Visibility; BSS).
- For Ice Trails:
- Date and time of each observation event (e.g., initial observation of a seal or seal structure) and subsequent monitoring;
 - Environmental conditions during each observation event;
 - Number of animals per observation event; and number of adults/juveniles/pups per observation event;
 - Behaviors of seals during each observation event; and
 - Geographic coordinates of the observed animals or structure (breathing hole or lair), with the position recorded by using the most precise coordinates practicable (coordinates will be recorded in decimal degrees, or similar standard, and defined coordinate system).

Reporting Dead or Injured Marine Mammals—In the event that personnel involved in the project activities covered by the authorization discover an injured or dead marine mammal, the IHA-holder shall report the incident to the Office of Protected Resources (OPR), NMFS (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.cockrell@noaa.gov*) and to the Alaska regional stranding coordinator (907–586–7209) as soon as feasible. The report must 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.

Vessel Strike—In the event of a strike of a marine mammal by any vessel involved in the activities covered by the authorization, Narwhal shall report the incident to OPR, NMFS, and the Alaska regional stranding coordinator (907–586–7209) as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Vessel's speed during and leading up to the incident;

- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measure were taken, if any, to avoid strike;
- Environmental conditions (e.g., wind speed and direction, BSS, cloud cover, visibility) immediately preceding the strike;
- Species identification (if known) or description of the animal(s) involved;
- Estimated size and length of the animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals present immediately preceding the strike;
- Estimated fate of the animal (e.g., dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
- To the extent practicable, photographs or video footage of the animal(s).

Monitoring Plan Peer Review

The MMPA requires that monitoring plans be independently peer reviewed where the proposed activity may affect the availability of a species or stock for taking for subsistence uses (16 U.S.C. 1371(a)(5)(D)(ii)(III)). Regarding this requirement, NMFS' implementing regulations state that upon receipt of a complete monitoring plan and at its discretion, NMFS will either submit the plan to members of a peer review panel for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan (50 CFR 216.108(d)).

NMFS established an independent peer review panel to review the Monitoring Measures in Narwhal's application in April 2025. NMFS will provide the panel with a copy of Narwhal's application and a list of considerations to guide their discussion of the monitoring plan. The panel will provide a final report to NMFS containing recommendations for Narwhal's monitoring plan, and NMFS will summarize the Peer Review Panel's recommendations and how they are addressed in the **Federal Register** notice announcing the final IHA, if issued.

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 majority of our analysis applies to all the species listed in table 10, given that many of the anticipated effects of the specified activities on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

The shallow water hazard survey (single seismic airgun and sparker) and the construction and operation of coastal sea ice trails have the potential to disturb or temporarily displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment only, from use of the acoustic source during shallow water hazard surveys or through disturbance incidental to the construction and operation of coastal sea ice trails. No mortality or serious injury is anticipated given the nature of the activity. The potential for Level A

harassment from the shallow water hazard survey is minimized through the implementation of the required mitigation measures (see Mitigation Measures section). The applicant would implement shutdowns of acoustic sources during the shallow water hazard survey before marine mammals enter the Level A harassment zones. Take by Level A harassment is not expected during the construction and operation of the sea ice trails.

The shallow water hazard survey has the potential to overlap with bowhead whale BIAs identified as important for feeding and migration. The three of the four BIAs (Alaska Beaufort Parent, Harrison Bay Child, and West Alaska Beaufort Child) for feeding occur for the months of August and September (during the shallow water hazard survey) and are of moderate to high importance and intensity with high data support and boundary certainty. Only a very small portion of the shoreward boundary of the three feeding BIAs would overlap with the proposed project area and only 12 days of active acoustic sources during the shallow water hazard surveys would occur. The relative size and timing of remaining available feeding habitat for bowheads does not suggest the activity would result in decreased fitness of feeding bowhead whales. One of the two migratory BIAs (Beaufort) also occurs during August and September (during the shallow water hazard survey) and is of high importance and intensity with high data support and boundary certainty. Only small portions of the entire BIA would overlap with the shallow water hazard survey when compared to the entire available area. The shallow water hazard survey also would only occur over 12 days, therefore, reducing the potential for long-term effects. Given the small portion of overlap and the short-term effects of this activity, it is not expected to impact reproduction or survivorship of any individuals using the BIAs.

As described above, the project does not overlap with critical habitat for ringed seals or bearded seals. There are no anticipated effects from this project on designated critical habitat for these species. While some ice trail activities (operation and demobilization) may occur during pupping season for ringed seals, Narwhal plans to construct the entirety of their expected ice trails prior to March 1st when the ringed seal pupping season begins. The additional proposed mitigation measures required after March 1st would mitigate any potential disturbances to seals that are actively pupping. During the construction of the ice trail, behavioral

disturbance of ringed seals may occur but is expected to be limited given the proposed mitigation and monitoring measures.

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 anticipated incidents of Level B harassment would consist of, at most, temporary modifications in behavior that would not result in fitness impacts to individuals;
- The area impacted by the specified activities is very small relative to the overall habitat ranges of all species;
- While impacts would occur within areas that are important for feeding and migration for bowhead whales, because of the small footprint of the activity relative to the area of these important use areas and the scope and nature of the anticipated impacts of shallow water hazard survey, we do not expect impacts to the reproduction or survival of any individuals.

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 specified activities 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 section 101(a)(5)(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. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The number of takes NMFS proposes to authorize is below one-third of the modeled abundance for all relevant

populations (specifically, take of individuals is less than 0.7 percent of the most appropriate abundance estimate for each stock, see table 10). This is conservative because this approach assumes all takes are of different individual animals, which is likely not the case. Some individuals may be encountered multiple times in a day, but PSOs would count them as separate individuals if they cannot be identified.

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.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an “unmitigable adverse impact” on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined “unmitigable adverse impact” in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Given the nature of the activity and the required mitigation measures, serious injury and mortality of marine mammals is not expected to occur. Impacts to marine mammals would be limited to temporary behavioral disturbances of seals and bowhead whales. As described above, the required mitigation measures, such as implementation of shutdown zones, are expected to reduce the frequency and severity of takes of marine mammals.

Project activities could deter target species from west Harrison Bay. However, much of the project season avoids traditional ice seal harvest windows. (As noted in the Potential Effects of Specified Activities on Subsistence Uses of Marine Mammals section above, Nuiqsut residents typically harvest ice seals in the highest numbers in June, July, and August, and Narwhal’s project would not begin until mid-August.) While some hunting

continues throughout the early fall, we do not anticipate that there would be impacts to seals that would make them unavailable for subsistence hunters. As noted in the Potential Effects of Specified Activities on Subsistence Uses of Marine Mammals section, subsistence use of bowhead whales is limited in this area, as it is not within the preferred and frequented hunting areas. The authorized takes are not expected to affect the fitness of any bowhead whales, or cause significant deflection outside of the typical migratory path in areas where subsistence hunts occur. Narwhal will continue to coordinate with local communities and subsistence groups to minimize impacts of the project, as described in the POC, which the IHA requires Narwhal to abide by.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from Narwhal's proposed activities.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS OPR consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the NMFS Alaska Regional Office (AKR).

OPR is proposing to authorize take of bowhead whale, bearded seal (Beringia DPS), and ringed seal (Arctic subspecies), which are listed under the ESA. OPR has requested initiation of section 7 consultation with AKR for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Narwhal for conducting oil and gas exploration activities in and around west Harrison Bay, Alaska, 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-oil-and-gas>.

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 oil and gas exploration activities. 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, one-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 one 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: May 12, 2025.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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Reader Aids

Federal Register

Vol. 90, No. 94

Friday, May 16, 2025

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000**

Laws **741-6000**

Presidential Documents

Executive orders and proclamations **741-6000**

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Electronic and on-line services (voice) **741-6020**

Privacy Act Compilation **741-6050**

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FEDERAL REGISTER PAGES AND DATE, MAY

18627-18758.....	1
18759-18910.....	2
18911-19120.....	5
19121-19246.....	6
19247-19420.....	7
19421-19618.....	8
19619-20082.....	9
20083-20230.....	12
20231-20356.....	13
20357-20560.....	14
20561-20752.....	15
20753-21214.....	16

CFR PARTS AFFECTED DURING MAY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

10925.....	18899
10926.....	18905
10927.....	19409
10928.....	19411
10929.....	19413
10930.....	19605
10931.....	19607
10932.....	19609
10933.....	20227
10934.....	20229
10935.....	20357
10936.....	20359
10937.....	20361

Executive Orders:

14286.....	18759
14287.....	18761
14288.....	18765
14289.....	18907
14290.....	19415
14291.....	19417
14292.....	19611
14293.....	19615
14294.....	20363
14295.....	20367
14296.....	20369
14297.....	20749

Administrative Orders:

Notices:

Notice of May 7, 2025.....	19619
Notice of May 7, 2025.....	19621
Notice of May 7, 2025.....	20081
Notice of May 9, 2025.....	20557
Notice of May 9, 2025.....	20559

5 CFR

Proposed Rules:

430.....	18820
1605.....	19431
1655.....	20132

7 CFR

110.....	20083
226.....	20083
760.....	20231
1145.....	19247

Proposed Rules:

205.....	20133
272.....	20825

10 CFR

50.....	19247
72.....	18769
205.....	20753
207.....	20755
430.....	19250

433.....	18911
435.....	18911
590.....	20758
600.....	20761
626.....	20764
708.....	20766
800.....	20769
1000.....	20772
1003.....	20774
1040.....	20777, 20783
1042.....	20786, 20788

Proposed Rules:

205.....	20826
300.....	20828
429.....	20831, 20835, 20840, 20849
430.....	20835, 20840, 20854, 20859, 20864, 20868, 20873, 20876, 20881, 20885, 20890, 20895, 20899, 20905
431.....	20849, 20909, 20915, 20919, 20925, 20930, 20935
451.....	20939
452.....	20942
455.....	20945
1022.....	20947
1040.....	20949

12 CFR

5.....	20561
Ch. X.....	20084, 20565
1024.....	20791

Proposed Rules:

1005.....	20568
1022.....	20568
1027.....	20569
1081.....	20241
1091.....	20401
1092.....	20406

13 CFR

Proposed Rules:

124.....	20134
125.....	20134

14 CFR

25.....	18911
39.....	18627, 18629, 18770, 18774, 18913, 19121, 19255, 19421, 20087, 20089, 20373, 20375, 20380
71.....	18776, 18777, 18778, 20091, 20093, 20094, 20232, 20233, 20382, 20383, 20795
97.....	19258, 19259
1264.....	19261
1271.....	19261

Proposed Rules:

39.....	18930, 19134, 19157, 19160, 19264, 19660, 19662, 20261, 20408, 20411, 20569, 20952
47.....	18632

71 18826, 18932, 20136, 20138, 20264	903.....19262	19428, 19650, 19652	Proposed Rules:
73.....19266	26 CFR	180.....20396	9.....19374
141.....19432	Proposed Rules:	705.....20236	10.....18637
300.....20956	1.....20977	Proposed Rules:	
302.....20956	28 CFR	Ch. I.....20575	48 CFR
399.....20956	50.....18785	52.....19434, 19437, 19447, 19459, 19460, 20425	Ch. 1.....20220, 20224
450.....20414	31 CFR	257.....20985	1.....20223
15 CFR	1.....20394	41 CFR	17.....20223
705.....18780	Proposed Rules:	102–74.....19658	25.....20220
19 CFR	1010.....18934	42 CFR	33.....20223
12.....18916, 20384	33 CFR	8.....20393	52.....20223
21 CFR	100.....18924, 18926, 19123, 19645, 20797	401.....20801	49 CFR
73.....20097, 20101, 20104	117.....20235	405.....20801	Proposed Rules:
291.....20393	165.....19123, 19124, 19125, 19647, 19648, 20108	410.....20801	1.....20956
510.....19623	Proposed Rules:	411.....20801	5.....20956
516.....19623	100.....20140	414.....20801	7.....20956
520.....19623	165.....18633, 18635, 19665, 20572	423.....20801	106.....20956
522.....19623	34 CFR	424.....20801	193.....18949
524.....19623	Proposed Rules:	425.....20801	389.....20956
862.....19625, 19627	Ch. VI.....20142	427.....20801	553.....20956
864.....19629	37 CFR	428.....20801	601.....20956
866.....19631, 19634, 19636, 19638, 19641, 19644	Proposed Rules:	491.....20801	
Proposed Rules:	Ch. VI.....20142	Proposed Rules:	50 CFR
101.....19664	39 CFR	433.....20578	217.....20110
23 CFR	Proposed Rules:	43 CFR	219.....21134
490.....20234	380.....20977, 20982	4.....18927	300.....19126
24 CFR	39 CFR	8.....20808	622.....19129, 20127, 20809
5.....19262	111.....20799	45 CFR	635.....19130
91.....19262	Proposed Rules:	86.....20393	648.....18804, 20128
92.....19262	111.....18730	92.....20393	660.....20810
570.....19262	40 CFR	47 CFR	679.....20239
574.....19262	52.....19423, 19424, 19426,	26.....18789, 18800	Proposed Rules:
576.....19262		73.....18804, 18928, 18929	32.....20600

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 April 14, 2025

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