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Title 3—

Executive Order 14311 of June 30, 2025

The President

Establishing a White House Office for Special Peace Missions

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. *White House Office for Special Peace Missions.* In order to assist in bringing about the end of conflict and strife around the world, the Office for Special Peace Missions is hereby established within the White House Office. The Office for Special Peace Missions shall be headed by a Special Envoy for Peace Missions, who shall be appointed by the President. The Special Envoy for Peace Missions shall advance efforts aimed at ending ongoing conflicts abroad, and shall work towards these ends in coordination with the Department of State, the Department of Defense, and all other relevant executive departments and agencies.

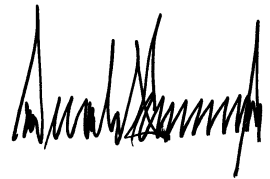
Sec. 2. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
June 30, 2025.

Presidential Documents

Executive Order 14312 of June 30, 2025

Providing for the Revocation of Syria Sanctions

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108–175) (Syria Accountability Act), the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102–182, title III) (CBW Act), the Caesar Syria Civilian Protection Act of 2019, as amended (22 U.S.C. 8791 note) (Caesar Act), the Illicit Captagon Trafficking Suppression Act of 2023 (Public Law 118–50, div. P), and section 301 of title 3, United States Code, it is hereby ordered:

Section 1. Background. The United States is committed to supporting a Syria that is stable, unified, and at peace with itself and its neighbors. A united Syria that does not offer a safe haven for terrorist organizations and ensures the security of its religious and ethnic minorities will support regional security and prosperity. The Secretary of State and the Secretary of the Treasury have taken initial steps towards this goal through the issuance on May 23, 2025, of General License 25 and a waiver of sanctions under the Caesar Act.

Sec. 2. Policy. It is the policy of the United States to recognize that circumstances that gave rise to the actions taken in the Executive Orders described in section 3(a) of this order, related to the policies and actions of the former regime of Bashar al-Assad, have been transformed by developments over the past 6 months, including the positive actions taken by the new Syrian government under President Ahmed al-Sharaa. This order supports United States national security and foreign policy goals by directing additional actions, including the removal of sanctions on Syria, the issuance of waivers that permit the relaxation of export controls and other restrictions on Syria, and other actions to be taken by the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce, as well as by other executive departments and agencies (agencies) of the United States, without providing relief to ISIS or other terrorist organizations, human rights abusers, those linked to chemical weapons or proliferation-related activities, or other persons that threaten the peace, security, or stability of the United States, Syria, and its neighbors.

Sec. 3. Revocation of Syria Sanctions. (a) Effective July 1, 2025, I hereby terminate the national emergency declared in Executive Order 13338 of May 11, 2004 (Blocking Property of Certain Persons and Prohibiting the Export of Certain Goods to Syria), and revoke that order, as well as Executive Order 13399 of April 25, 2006 (Blocking Property of Additional Persons in Connection With the National Emergency With Respect to Syria), Executive Order 13460 of February 13, 2008 (Blocking Property of Additional Persons in Connection With the National Emergency With Respect to Syria), Executive Order 13572 of April 29, 2011 (Blocking Property of Certain Persons with Respect to Human Rights Abuses in Syria), Executive Order 13573 of May 18, 2011 (Blocking Property of Senior Officials of the Government of Syria), and Executive Order 13582 of August 17, 2011 (Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria).

(b) Pursuant to section 202(a) of the NEA (50 U.S.C. 1622(a)), termination of the national emergency declared in Executive Order 13338, as modified in scope and relied upon for additional steps taken in Executive Order 13399, Executive Order 13460, Executive Order 13572, Executive Order 13573, and Executive Order 13582 shall not affect any action taken or pending proceeding not finally concluded or determined as of July 1, 2025, any action or proceeding based on any act committed prior to July 1, 2025, or any rights or duties that matured or penalties that were incurred prior to July 1, 2025.

Sec. 4. Accountability for the Former Regime of Bashar al-Assad. I find that additional steps must be taken to ensure meaningful accountability for perpetrators of war crimes, human rights violations and abuses, and the proliferation of narcotics trafficking networks in and in relation to Syria during the former regime of Bashar al-Assad and by those associated with it. Perpetrators of such actions threaten to undermine peace, security, and stability in the region, and thereby constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

(a) I hereby expand the scope of the national emergency declared in Executive Order 13894 of October 14, 2019 (Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria), as amended in and relied on for additional steps taken in Executive Order 14142 of January 15, 2025 (Taking Additional Steps With Respect to the Situation in Syria), to deal with that threat, and accordingly further amend Executive Order 13894 by:

(i) striking section 1(a) and inserting, in lieu thereof, the following:

“Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) to be responsible for or complicit in, or to have directly or indirectly engaged in, or attempted to engage in, any of the following in or in relation to Syria:

(1) actions or policies that further threaten the peace, security, stability, or territorial integrity of Syria; or
(2) the commission of serious human rights abuse;

(B) to be a former government official of the former regime of Bashar al-Assad or a person who acted for or on behalf of such an official;

(C) to have engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the illicit production and international illicit proliferation of captagon;

(D) to be responsible for or complicit in, to have directly or indirectly engaged in, or to be responsible for ordering, controlling, or otherwise directing, instances in which a United States national ((i) as defined in 8 U.S.C. 1101(a)(22) or 8 U.S.C. 1408, or (ii) a lawful permanent resident with significant ties to the United States) went missing in Syria during the former regime of Bashar al-Assad;

(E) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:

(1) the former regime of Bashar al-Assad;
(2) any activity described in subsections (a)(i)(A)–(a)(i)(D) of this section; or

(3) any person whose property and interests in property are blocked pursuant to this order;

(F) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order; or

(G) to be an adult family member of a person designated under subsections (a)(i)(A)–(a)(i)(D) of this section.”; and

(ii) striking section 2(a) and inserting, in lieu thereof, the following:

“**Sec. 2.** (a) The Secretary of State, in consultation with the Secretary of the Treasury and other officials of the United States Government as appropriate, is hereby authorized to impose on a foreign person any of the sanctions described in subsections (b) and (c) of this section, upon determining that the person, on or after the date of this order:

(i) is responsible for or complicit in, has directly or indirectly engaged in, or attempted to engage in, or financed the obstruction, disruption, or prevention of efforts to promote a Syria that is stable, unified, and at peace with itself and its neighbors, including:

(A) the convening and conduct of a credible and inclusive Syrian-led constitutional process;

(B) the preparation for and conduct of supervised elections, pursuant to the new constitution, that are free and fair and to the highest international standards of transparency and accountability; or

(C) the development of a Syrian government that is representative and reflects the will of the Syrian people;

(ii) is an adult family member of a person designated under subsection (a)(i) of this section; or

(iii) is responsible for or complicit in, or has directly or indirectly engaged in, or attempted to engage in, the expropriation of property, including real property, for personal gain or political purposes in Syria.”

(b) I additionally amend Executive Order 13606 of April 22, 2012 (Blocking the Property and Suspending Entry into the United States of Certain Persons With Respect to Grave Human Rights Abuses by the Governments of Iran and Syria Via Information Technology), by removing the following text from the preamble: “Executive Order 13338 of May 11, 2004, as modified in scope and relied upon for additional steps in subsequent Executive Orders” and replacing it with: “Executive Order 13894 of October 14, 2019, and relied upon for additional steps and further amended in subsequent Executive Orders.”

Sec. 5. *Caesar Act.* The Secretary of State, in consultation with the Secretary of the Treasury, shall examine whether the criteria set forth in section 7431(a) of the Caesar Act have been met, and on the basis of that examination may, pursuant to the Presidential Memorandum of March 31, 2020 (Delegation of Certain Functions and Authorities Under the National Defense Authorization Act for Fiscal Year 2020), suspend in whole or in part the imposition of sanctions otherwise required under the Caesar Act. If the Secretary of State determines to suspend in whole or in part the imposition of such sanctions, the Secretary of State, in consultation with the Secretary of the Treasury, shall provide the briefing to the appropriate congressional committees required by section 7431(b) of the Caesar Act within 30 days of such determination. Further, the Secretary of State, in consultation with the Secretary of the Treasury, shall continue to review the situation in Syria, and if the Secretary of State, in consultation with the Secretary of the Treasury, determines that the criteria set forth in section 7431(a) are no longer met, the Secretary of State shall reimpose sanctions.

Sec. 6. *Syria Accountability Act.* I hereby determine pursuant to section 5(b) of the Syria Accountability Act that it is in the national security interest of the United States to waive the application of subsection (a)(1), with respect to items on the Commerce Control List (supp. No. 1 to 15 C.F.R. part 774) only, and subsection (a)(2)(A) of the Syria Accountability Act only. The Secretary of State shall submit to the appropriate congressional committees the report required under section 5(b) of that Act.

Sec. 7. *CBW Act.* (a) Pursuant to section 307(d)(1)(B) of the CBW Act, I hereby determine and certify that there has been a fundamental change

in the leadership and policies of the Government of the Syrian Arab Republic. Accordingly, I hereby waive the following sanctions imposed on Syria for the prior use of chemical weapons under the former regime of Bashar al-Assad:

- (i) the restriction on foreign assistance under section 307(a)(1) of the CBW Act;
- (ii) the restriction on United States Government credit, credit guarantees, or other financial assistance under section 307(a)(4) of the CBW Act;
- (iii) the restrictions on the export of national security-sensitive goods and technology under section 307(a)(5) of the CBW Act and on all other goods and technology under section 307(b)(2)(C) of the CBW Act; and
- (iv) the restriction on United States banks from making any loan or providing any credit to the Government of Syria under section 307(b)(2)(B) of the CBW Act.

(b) The Secretary of State shall transmit this waiver determination and report as required by sections 307(d)(1)(B) and (d)(2) of the CBW Act to the appropriate congressional committees. This waiver shall be effective 20 days after it has been so transmitted.

Sec. 8. Counterterrorism Designations. (a) The Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, shall take all appropriate action with respect to the designation of al-Nusrah Front, also known as Hay'at Tahrir al-Sham and other aliases, as a Foreign Terrorist Organization under 8 U.S.C. 1189 and as a Specially Designated Global Terrorist under 50 U.S.C. 1702 and Executive Order 13224, as well as the designation of Abu Muhammad al-Jawlani, commonly known as Ahmed al-Sharaa, as a Specially Designated Global Terrorist.

(b) The Secretary of State shall take all appropriate action to review the designation of Syria as a State Sponsor of Terrorism consistent with section 1754(c) of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 50 U.S.C. 4813(c)), section 40 of the Arms Export Control Act (Public Law 90–629, as amended; 22 U.S.C. 2780), and section 620A of the Foreign Assistance Act of 1961 (Public Law 87–195, as amended; 22 U.S.C. 2371).

Sec. 9. United Nations. The Secretary of State shall take appropriate steps to advance United States policy objectives at the United Nations to support a Syria that is stable and at peace and to support Syrian efforts to counter terrorism and comply with its responsibilities and obligations concerning weapons of mass destruction, including chemical and biological weapons. The Secretary of State is further directed to explore avenues at the United Nations to provide sanctions relief in support of these objectives.

Sec. 10. Implementation. The Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce, as appropriate, are hereby authorized to take such actions, including adopting rules and regulations, as may be necessary to implement this order. The Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce may, consistent with applicable law, redelegate any of these functions within their respective agencies. The Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Transportation, as appropriate, is authorized to exercise the functions and authorities conferred upon the President in section 5 of the Syria Accountability Act and to redelegate these functions and authorities consistent with applicable law. All agencies of the United States shall take all appropriate measures within their authority to implement this order, consistent with applicable law.

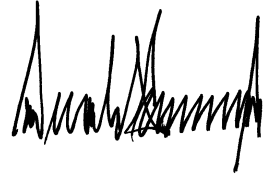
Sec. 11. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of State.

A handwritten signature in black ink, appearing to be a stylized representation of a name, possibly 'Donald Trump', written in a cursive, slanted style.

THE WHITE HOUSE,
June 30, 2025.

Presidential Documents

Presidential Permit of June 30, 2025

Authorizing Junction Pipeline Company, LLC To Construct, Connect, Operate, and Maintain Pipeline Facilities at Toole County, Montana, at the International Boundary Between the United States and Canada

By virtue of the authority vested in me as President of the United States of America (the “President”), I hereby grant this Presidential permit, subject to the conditions herein set forth, to Junction Pipeline Company, LLC (the “permittee”). The permittee is a limited liability company, organized under the laws of the State of Texas. Permission is hereby granted to the permittee to construct, connect, operate, and maintain pipeline Border facilities, as described herein, at the international border of the United States and Canada at Toole County, Montana, for the import from Canada into the United States of crude oil and petroleum products of every description, refined or unrefined (inclusive of, but not limited to, naphtha, liquefied petroleum gas, natural gas liquids, jet fuel, gasoline, kerosene, and diesel), but not including natural gas subject to section 3 of the Natural Gas Act, as amended (15 U.S.C. 717b).

This permit does not affect the applicability of any otherwise-relevant laws and regulations. As confirmed in Article 2 of this permit, the Border facilities shall remain subject to all such laws and regulations.

The term “Facilities” as used in this permit means the portion in the United States of the international pipeline project associated with the permittee’s April 8, 2021, application for an amendment to its existing permit, and any land, structures, installations, or equipment appurtenant thereto.

The term “Border facilities” as used in this permit means those parts of the Facilities consisting of a 30-inch diameter pipeline extending from the international border between the United States and Canada at Toole County, Montana, to and including the first mainline shut-off valve or pumping station in the United States located approximately one quarter of a mile from the international border, and any land, structures, installations, or equipment appurtenant thereto.

This permit is subject to the following conditions:

Article 1. The Border facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit and any subsequent Presidential amendment to it. The permittee shall make no substantial change in the Border facilities, in the location of the Border facilities, or in the operation authorized by this permit unless the President has approved the change in an amendment to this permit or in a new permit. Such substantial changes do not include, and the permittee may make, changes to the average daily throughput capacity of the Border facilities to any volume of products that is achievable through the Border facilities, and to the directional flow of any such products.

Article 2. The standards for, and the manner of, construction, connection, operation, and maintenance of the Border facilities shall be subject to inspection by the representatives of appropriate Federal, State, and local agencies. Officers and employees of such agencies who are duly authorized and performing their official duties shall be granted free and unrestricted access to the Border facilities by the permittee. The Border facilities, including

the construction, connection, operation, and maintenance of the Border facilities, shall be subject to all applicable laws and regulations, including pipeline safety laws and regulations issued or administered by the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation. The permittee shall obtain requisite permits from relevant State and local governmental entities, and relevant Federal agencies.

Article 3. Upon the termination, revocation, or surrender of this permit, unless otherwise decided by the President, the permittee, at its own expense, shall remove the Border facilities within such time as the President may specify. If the permittee fails to comply with an order to remove, or to take such other appropriate action with respect to, the Border facilities, the President may direct an appropriate official or agency to take possession of the Border facilities—or to remove the Border facilities or take other action—at the expense of the permittee. The permittee shall have no claim for damages caused by any such possession, removal, or other action.

Article 4. When, in the judgment of the President, ensuring the national security of the United States requires entering upon and taking possession of any of the Border facilities or parts thereof, and retaining possession, management, or control thereof for such a length of time as the President may deem necessary, the United States shall have the right to do so, provided that the President or his designee has given due notice to the permittee. The United States shall also have the right thereafter to restore possession and control to the permittee. In the event that the United States exercises the rights described in this article, it shall pay to the permittee just and fair compensation for the use of such Border facilities, upon the basis of a reasonable profit in normal conditions, and shall bear the cost of restoring the Border facilities to their previous condition, less the reasonable value of any improvements that may have been made by the United States.

Article 5. Any transfer of ownership or control of the Border facilities, or any part thereof, or any changes to the name of the permittee, shall be immediately communicated in writing to the President or his designee, and shall include information identifying any transferee. Notwithstanding any such transfers or changes, this permit shall remain in force subject to all of its conditions, permissions, and requirements, and any amendments thereto.

Article 6. (1) The permittee is responsible for acquiring any right-of-way grants or easements, permits, and other authorizations as may become necessary or appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of construction, connection, operation, or maintenance of the Border facilities, including environmental contamination from the release, threatened release, or discharge of hazardous substances or hazardous waste.

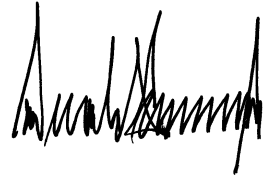
(3) To ensure the safe operation of the Border facilities, the permittee shall maintain them and every part of them in a condition of good repair and in compliance with applicable law.

Article 7. The permittee shall file with the President or his designee, and with appropriate agencies, such sworn statements or reports with respect to the Border facilities, or the permittee's activities and operations in connection therewith, as are now, or may hereafter, be required under any law or regulation of the United States Government or its agencies. These reporting obligations do not alter the intent that this permit be operative as a directive issued by the President alone.

Article 8. Upon request, the permittee shall provide appropriate information to the President or his designee with regard to the Border facilities. Such requests could include information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation, or maintenance of the Border facilities.

Article 9. This permit is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord two thousand twenty-five, and of the Independence of the United States of America the two hundred and forty-ninth.

A handwritten signature in black ink, appearing to be "Donald Trump", located on the right side of the page.

Presidential Documents

Presidential Permit of June 30, 2025

Authorizing South Bow (USA) LP To Operate and Maintain Pipeline Facilities at Cavalier County, North Dakota, at the International Boundary Between the United States and Canada

By virtue of the authority vested in me as President of the United States of America (the “President”), I hereby grant this Presidential permit, subject to the conditions herein set forth, to South Bow (USA) LP (the “permittee”). The permittee is a limited partnership, organized under the laws of the State of Delaware and owned by affiliates of South Bow Corporation, a Canadian public company organized under the laws of Canada. Permission is hereby granted to the permittee to operate and maintain existing pipeline Border facilities, as described herein, at the international border of the United States and Canada at Cavalier County, North Dakota, for the transport between the United States and Canada of all hydrocarbons and petroleum products of every description, refined or unrefined (inclusive of, but not limited to, crude oil, naphtha, liquefied petroleum gas, natural gas liquids, jet fuel, gasoline, kerosene, and diesel), but not including natural gas subject to section 3 of the Natural Gas Act, as amended (15 U.S.C. 717b).

This permit supersedes and revokes the Presidential permit issued previously, dated July 29, 2020. *See* 85 *Fed. Reg.* 47005 (Aug. 3, 2020) (notice of Presidential permit).

This permit does not affect the applicability of any otherwise-relevant laws and regulations. As confirmed in Article 2 of this permit, the Border facilities shall remain subject to all such laws and regulations.

The term “Facilities” as used in this permit means the portion in the United States of the international pipeline project associated with the permittee’s November 6, 2024, application for an amendment to its existing permit, and any land, structures, installations, or equipment appurtenant thereto.

The term “Border facilities” as used in this permit means those parts of the Facilities consisting of a 30-inch diameter pipeline in existence at the time of this permit’s issuance extending from the international border between the United States and Canada at Cavalier County, North Dakota, to and including the first mainline shut-off valve or pumping station in the United States, and any land, structures, installations, or equipment appurtenant thereto.

This permit is subject to the following conditions:

Article 1. The Border facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit and any subsequent Presidential amendment to it. The permittee shall make no substantial change in the Border facilities, in the location of the Border facilities, or in the operation authorized by this permit unless the President has approved the change in an amendment to this permit or in a new permit. Such substantial changes do not include, and the permittee may make, changes to the average daily throughput capacity of the Border facilities to any volume of products that is achievable through the Border facilities, and to the directional flow of any such products.

Article 2. The standards for, and the manner of, operation and maintenance of the Border facilities shall be subject to inspection by the representatives

of appropriate Federal, State, and local agencies. Officers and employees of such agencies who are duly authorized and performing their official duties shall be granted free and unrestricted access to the Border facilities by the permittee. The Border facilities, including the operation and maintenance of the Border facilities, shall be subject to all applicable laws and regulations, including pipeline safety laws and regulations issued or administered by the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation. The permittee shall obtain requisite permits from relevant State and local governmental entities, and relevant Federal agencies.

Article 3. Upon the termination, revocation, or surrender of this permit, unless otherwise decided by the President, the permittee, at its own expense, shall remove the Border facilities within such time as the President may specify. If the permittee fails to comply with an order to remove, or to take such other appropriate action with respect to, the Border facilities, the President may direct an appropriate official or agency to take possession of the Border facilities—or to remove the Border facilities or take other action—at the expense of the permittee. The permittee shall have no claim for damages caused by any such possession, removal, or other action.

Article 4. When, in the judgment of the President, ensuring the national security of the United States requires entering upon and taking possession of any of the Border facilities or parts thereof, and retaining possession, management, or control thereof for such a length of time as the President may deem necessary, the United States shall have the right to do so, provided that the President or his designee has given due notice to the permittee. The United States shall also have the right thereafter to restore possession and control to the permittee. In the event that the United States exercises the rights described in this article, it shall pay to the permittee just and fair compensation for the use of such Border facilities, upon the basis of a reasonable profit in normal conditions, and shall bear the cost of restoring the Border facilities to their previous condition, less the reasonable value of any improvements that may have been made by the United States.

Article 5. Any transfer of ownership or control of the Border facilities, or any part thereof, or any changes to the name of the permittee, shall be immediately communicated in writing to the President or his designee, and shall include information identifying any transferee. Notwithstanding any such transfers or changes, this permit shall remain in force subject to all of its conditions, permissions, and requirements, and any amendments thereto.

Article 6. (1) The permittee is responsible for acquiring any right-of-way grants or easements, permits, and other authorizations as may become necessary or appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of construction, connection, operation, or maintenance of the Border facilities, including environmental contamination from the release, threatened release, or discharge of hazardous substances or hazardous waste.

(3) To ensure the safe operation of the Border facilities, the permittee shall maintain them and every part of them in a condition of good repair and in compliance with applicable law.

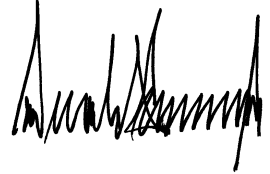
Article 7. The permittee shall file with the President or his designee, and with appropriate agencies, such sworn statements or reports with respect to the Border facilities, or the permittee's activities and operations in connection therewith, as are now, or may hereafter, be required under any law or regulation of the United States Government or its agencies. These reporting obligations do not alter the intent that this permit be operative as a directive issued by the President alone.

Article 8. Upon request, the permittee shall provide appropriate information to the President or his designee with regard to the Border facilities. Such

requests could include information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation, or maintenance of the Border facilities.

Article 9. This permit is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord two thousand twenty-five, and of the Independence of the United States of America the two hundred and forty-ninth.



Presidential Documents

Presidential Permit of June 30, 2025

Authorizing Steel Reef US Pipelines LLC To Operate and Maintain Pipeline Facilities at Burke County, North Dakota, at the International Boundary Between the United States and Canada

By virtue of the authority vested in me as President of the United States of America (the “President”), I hereby grant this Presidential permit, subject to the conditions herein set forth, to Steel Reef US Pipelines LLC (the “permittee”). The permittee is a limited liability company organized under the laws of the State of Delaware and owned by affiliates of Steel Reef Infrastructure Corp., a Canadian privately held corporation organized under the laws of Canada. Permission is hereby granted to the permittee to operate and maintain existing pipeline Border facilities, as described herein, at the international border of the United States and Canada at Burke County, North Dakota, for the export from the United States into Canada of natural gas liquids, but not including natural gas subject to section 3 of the Natural Gas Act, as amended (15 U.S.C. 717b).

This permit does not affect the applicability of any otherwise-relevant laws and regulations. As confirmed in Article 2 of this permit, the Border facilities shall remain subject to all such laws and regulations.

The term “Facilities” as used in this permit means the portion in the United States of the international pipeline project associated with the permittee’s February 23, 2022, application for an amendment to its existing permit, and any land, structures, installations, or equipment appurtenant thereto.

The term “Border facilities” as used in this permit means those parts of the Facilities consisting of an 8.625-inch diameter pipeline in existence at the time of this permit’s issuance extending from the international border between the United States and Canada at Burke County, North Dakota, to and including the first mainline shut-off valve or pumping station in the United States, and any land, structures, installations, or equipment appurtenant thereto.

This permit is subject to the following conditions:

Article 1. The Border facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit and any subsequent Presidential amendment to it. The permittee shall make no substantial change in the Border facilities, in the location of the Border facilities, or in the operation authorized by this permit unless the President has approved the change in an amendment to this permit or in a new permit. Such substantial changes do not include, and the permittee may make, changes to the average daily throughput capacity of the Border facilities to any volume of products that is achievable through the Border facilities, and to the directional flow of any such products.

Article 2. The standards for, and the manner of, operation and maintenance of the Border facilities shall be subject to inspection by the representatives of appropriate Federal, State, and local agencies. Officers and employees of such agencies who are duly authorized and performing their official duties shall be granted free and unrestricted access to the Border facilities by the permittee. The Border facilities, including the operation and maintenance of the Border facilities, shall be subject to all applicable laws and

regulations, including pipeline safety laws and regulations issued or administered by the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation. The permittee shall obtain requisite permits from relevant State and local governmental entities, and relevant Federal agencies.

Article 3. Upon the termination, revocation, or surrender of this permit, unless otherwise decided by the President, the permittee, at its own expense, shall remove the Border facilities within such time as the President may specify. If the permittee fails to comply with an order to remove, or to take such other appropriate action with respect to, the Border facilities, the President may direct an appropriate official or agency to take possession of the Border facilities—or to remove the Border facilities or take other action—at the expense of the permittee. The permittee shall have no claim for damages caused by any such possession, removal, or other action.

Article 4. When, in the judgment of the President, ensuring the national security of the United States requires entering upon and taking possession of any of the Border facilities or parts thereof, and retaining possession, management, or control thereof for such a length of time as the President may deem necessary, the United States shall have the right to do so, provided that the President or his designee has given due notice to the permittee. The United States shall also have the right thereafter to restore possession and control to the permittee. In the event that the United States exercises the rights described in this article, it shall pay to the permittee just and fair compensation for the use of such Border facilities, upon the basis of a reasonable profit in normal conditions, and shall bear the cost of restoring the Border facilities to their previous condition, less the reasonable value of any improvements that may have been made by the United States.

Article 5. Any transfer of ownership or control of the Border facilities, or any part thereof, or any changes to the name of the permittee, shall be immediately communicated in writing to the President or his designee, and shall include information identifying any transferee. Notwithstanding any such transfers or changes, this permit shall remain in force subject to all of its conditions, permissions, and requirements, and any amendments thereto.

Article 6. (1) The permittee is responsible for acquiring any right-of-way grants or easements, permits, and other authorizations as may become necessary or appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of construction, connection, operation, or maintenance of the Border facilities, including environmental contamination from the release, threatened release, or discharge of hazardous substances or hazardous waste.

(3) To ensure the safe operation of the Border facilities, the permittee shall maintain them and every part of them in a condition of good repair and in compliance with applicable law.

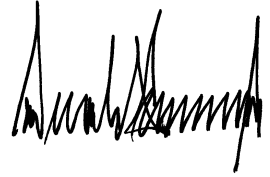
Article 7. The permittee shall file with the President or his designee, and with appropriate agencies, such sworn statements or reports with respect to the Border facilities, or the permittee's activities and operations in connection therewith, as are now, or may hereafter, be required under any law or regulation of the United States Government or its agencies. These reporting obligations do not alter the intent that this permit be operative as a directive issued by the President alone.

Article 8. Upon request, the permittee shall provide appropriate information to the President or his designee with regard to the Border facilities. Such requests could include information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation, or maintenance of the Border facilities.

Article 9. This permit is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by

any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord two thousand twenty-five, and of the Independence of the United States of America the two hundred and forty-ninth.

A handwritten signature in black ink, appearing to be "Donald Trump", located on the right side of the page.

Rules and Regulations

Federal Register

Vol. 90, No. 126

Thursday, July 3, 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.

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

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

RIN 3064-ZA45

Statement of Policy on Bank Merger Transactions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rescission and reinstatement of statement of policy.

SUMMARY: The FDIC is taking final action to rescind the Statement of Policy on Bank Merger Transactions published in 2024 (2024 Statement of Policy) and reinstate its Statement of Policy on Bank Merger Transactions that was in effect prior to the 2024 Statement of Policy (Bank Merger Statement of Policy). The reinstated Bank Merger Statement of Policy will remain in effect pending the FDIC's review of all aspects of the regulatory framework governing the FDIC's review of merger transactions in connection with a future proposal to comprehensively revise its merger policy.

DATES: This Bank Merger Statement of Policy supersedes the 2024 Statement of Policy, effective on August 4, 2025.

FOR FURTHER INFORMATION CONTACT:

Division of Risk Management Supervision: Thomas F. Lyons, Associate Director of Risk Management Policy, (202) 898-6850, tlyons@fdic.gov; Ryan C. Senegal, Chief, Policy and Program Development, (980) 249-3863, rsenegal@fdic.gov; George J. Small, Senior Examination Specialist, (347) 267-2453, gsmall@fdic.gov. Legal Division: Annmarie Boyd, Assistant General Counsel, (202) 898-3714, aboyd@fdic.gov; Nicholas A. Simons, Counsel, (202) 898-6785, nsimons@fdic.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 18(c) of the Federal Deposit Insurance Act (FDI Act), which codifies the Bank Merger Act (BMA), prohibits an insured depository institution (IDI) from engaging in a merger transaction except with the prior approval of the responsible agency.¹ The FDIC has jurisdiction to act on merger transactions that solely involve IDIs in which the acquiring, assuming, or resulting institution is an FDIC-supervised institution.² The FDIC also has jurisdiction to act on merger transactions that involve an IDI and any non-insured entity, notwithstanding the IDI's charter.³

On March 11, 2025, the FDIC published a request for comment⁴ in the **Federal Register** on a proposal to rescind the 2024 Statement of Policy issued on September 27, 2024⁵ and to reinstate the FDIC's prior Bank Merger Statement of Policy, which was initially adopted in 1998 and amended most recently in 2008.⁶

Having considered the comments received, the FDIC Board of Directors is rescinding the 2024 Statement of Policy and reinstating the Bank Merger Statement of Policy as described in this **SUPPLEMENTARY INFORMATION**.

II. Overview of the Proposal

A. Purpose

The FDIC proposed to rescind the 2024 Statement of Policy and reinstate the Bank Merger Statement of Policy due to concerns that the 2024 Statement of Policy added considerable uncertainty to the merger application process and raised additional questions regarding when merger applications would be required.⁷ The 2024 Statement

of Policy also deemphasized the use of the Herfindahl-Hirschman Index (HHI) thresholds in the competitive effects analysis, which had long served as a predictable proxy for determining whether a proposed transaction is anticompetitive,⁸ and replaced those thresholds with more subjective criteria. In addition, the 2024 Statement of Policy placed an affirmative burden on applicants to demonstrate that a merger transaction would enable the resulting institution to better meet the convenience and needs of the community to be served than would otherwise occur in the absence of the merger, without offering any objective or quantifiable criteria regarding how the FDIC would evaluate this factor.⁹ There were also concerns that the 2024 Statement of Policy made the FDIC's merger review process less transparent and predictable and left prospective applicants unclear about the prospects for approval and the resources and time necessary to complete the merger application process. Based on these concerns, in March of 2025, the FDIC proposed a return to its historical approach by seeking comment on the reinstatement of the prior Bank Merger Statement of Policy, which is well-understood by the public and market participants. Reinstatement of the Bank Merger Statement of Policy would serve as an interim measure while the agency develops future policy regarding merger transactions.

B. Summary of the Merger Policy Statement

The Bank Merger Statement of Policy was first published in 1998 and was subsequently amended several times without public comment,¹⁰ most recently in 2008. The Bank Merger Statement of Policy being reinstated is essentially¹¹ identical to the 2008 document. It includes a general introduction, followed by an overview of application procedures, a discussion of the FDIC's evaluation of the statutory factors required for consideration under the BMA,¹² and concludes with a list of related considerations. The discussion of the BMA statutory factors addresses

¹ 12 U.S.C. 1828(c).

² 12 U.S.C. 1828(c)(2).

³ 12 U.S.C. 1828(c)(1).

⁴ 90 FR 11679 (Mar. 11, 2025).

⁵ 89 FR 79125 (Sep. 27, 2024).

⁶ See 63 FR 44761 (Aug. 20, 1998), 67 FR 48178 (Jul. 23, 2002), 67 FR 79278 (Dec. 27, 2002), and 73 FR 8870 (Feb. 15, 2008).

⁷ See e.g., *supra* n. 5 at 89 FR 79134 ("The applicability of the BMA will depend on the facts and circumstances of the proposed transaction. In addition to transactions that combine institutions into a single legal entity through merger or consolidation, the scope of merger transactions subject to approval under the BMA encompasses transactions that take other forms, including purchase and assumption transactions or other transactions that are mergers in substance, and assumptions of deposits or other similar liabilities.").

⁸ See *id.* at 89 FR 79136.

⁹ See *id.* at 89 FR 79138.

¹⁰ See *supra* n. 6.

¹¹ The only changes are technical edits updating a room number and a citation.

¹² *Supra* n. 1.

the competitive factors, the prudential considerations related to financial and managerial resources and future prospects, the convenience and needs of the community to be served, and the effectiveness of each IDI involved in the proposed merger transaction in combatting money-laundering activities.

Although the Bank Merger Statement of Policy does not directly address the BMA's statutory factor related to the risk to the stability of the United States banking or financial system, which was added to the BMA by the Dodd-Frank Act in 2010,¹³ the FDIC has articulated its approach to evaluating this factor in the context of merger transactions in the FDIC's Applications Procedures Manual.¹⁴

III. Summary and Discussion of Comments

The FDIC received 12 comment letters from 10 commenters on its proposal to rescind the 2024 Statement of Policy and reinstate the Bank Merger Statement of Policy. Two of the commenters sent two letters each writing separately first to request an extension of the comment period and then to discuss the proposal. Commenters included academics, advocacy groups, trade associations, and an individual.

A. Request for Extension of the Comment Period

Four commenters requested an extension of the 30-day comment period to allow for additional time for more robust public feedback. The FDIC decided not to extend the comment period given the extensive consideration of, and public feedback on, the 2024 Statement of Policy, which centered on

the same issues. The FDIC desires to provide greater clarity for applicants in a timely manner as to how the FDIC would consider the BMA statutory factors in the context of a merger application, and reinstatement of the prior Bank Merger Statement of Policy supports this objective as it is well-understood by the public and market participants.

B. Comments on the Proposal To Rescind the 2024 Statement of Policy and Reinstate the Bank Merger Statement of Policy

Five commenters supported the proposed rescission of the 2024 Statement of Policy and the reinstatement of the Bank Merger Statement of Policy, and five commenters were opposed. Commenters who supported rescission and reinstatement objected to certain aspects of the 2024 Statement of Policy and noted IDIs' familiarity and experience with the Bank Merger Statement of Policy. For example, one commenter believed that the 2024 Statement of Policy introduced uncertainty and subjectivity into the merger review process that potentially deterred beneficial transactions and appropriate corporate reorganizations. This commenter believed that reinstatement of the Bank Merger Statement of Policy would help restore clarity and predictability for these transactions. Another commenter considered it a prudent measure for the FDIC to return to the previous, well-understood framework for reviewing merger transactions as an interim measure while it considered more comprehensive revisions to its merger policy. All five commenters in support of rescission and reinstatement also generally supported a comprehensive review of the FDIC's evaluation of merger transactions.

Commenters who opposed the proposal generally expressed support for the 2024 Statement of Policy and stated that rescission would be regressive, counterproductive, and unnecessary. These commenters stated that the 2024 Statement of Policy provided more clarity regarding considerations that are not addressed in the Bank Merger Statement of Policy, including for example, the community and economic impacts of branch closures and the FDIC's adjudication of a merger application under the financial stability factor. Commenters who opposed reinstatement of the Bank Merger Statement of Policy also generally supported the 2024 Statement of Policy's treatment of the convenience and needs statutory factor, as well as the

FDIC's expectations regarding public hearings for transactions where the resultant institution would have total assets of \$50 billion or more, heightened financial stability standards for merger transactions where the resultant institution would have total assets of \$100 billion or more, and references to community benefit agreements.

As discussed previously in this **SUPPLEMENTARY INFORMATION** section, the FDIC believes that the 2024 Statement of Policy has added considerable uncertainty to the merger application process. Accordingly, and in view of the comments received in support of the proposal, the FDIC believes it would be appropriate and beneficial to the public to rescind the 2024 Statement of Policy and reinstate the long-standing Bank Merger Statement of Policy that is both more familiar to, and better understood by, key stakeholders in the merger application process.

C. Comments Regarding Future Review of Merger Policy

Several commenters made recommendations to the FDIC in the context of its future review of the agency's merger policy, including ensuring closer adherence to the statutory criteria, reducing automatic bars to approval based on supervisory ratings alone, promoting greater interagency coordination, providing concrete timelines for approval, and improving transparency. Commenters also urged consideration of a streamlined application process for certain transactions based on their size or nature, such as internal reorganizations or transfers involving a small number of deposits. Other commenters recommended implementing a *de minimis* exception for mergers of small IDIs in rural markets, modernizing the competitive effects analysis to consider competition from nonbanks and financial services firms, re-evaluating how the FDIC utilizes Summary of Deposits data when measuring market concentration, and ensuring closer coordination with State regulators. These comments will be considered, and the FDIC will seek additional public comments, in connection with a future proposal to comprehensively revise merger policy.

IV. Administrative Law Matters

A. Executive Order 12866

Executive Order 12866, as amended by Executive Order 14215, directs certain agencies to assess costs and benefits of significant regulatory actions and to select regulatory approaches that maximize net benefits (including

¹³ 12 U.S.C. 1828(c)(5), as amended by Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111–203, section 604(f), 124 Stat. 1376, 1602 (2010).

¹⁴ See FDIC Applications Procedures Manual, pp. 4–22–4–23, available at: <https://www.fdic.gov/sites/default/files/2024-03/pr19111a.pdf>. ("In evaluating a merger application, the FDIC must consider the risk to the stability of the United States banking or financial system (Section 18(c)(5) of the FDI Act). [The FDIC] consider[s] both quantitative and qualitative metrics when evaluating a transaction's impact on financial stability. The following is a non-exhaustive list of quantitative metrics [the FDIC] consider[s]: the size of the resulting firm; the availability of substitute providers for any critical products and services offered by the resulting firm; the interconnectedness of the resulting firm with the banking or financial system; the extent to which the resulting firm contributes to the complexity of the financial system; and the extent of cross-border activities of the resulting firm. In addition to these quantitative metrics, qualitative factors should inform the evaluation of the financial stability factor. Such factors include those that are indicative of the relative degree of difficulty in resolving the resulting firm, such as the opacity and complexity of the resulting institution's operations.")

potential economic, environmental, public health and safety effects, distributive impacts, and equity). Pursuant to section 3(f) of Executive Order 12866, the Office of Information and Regulatory Affairs within the Office of Management and Budget has determined that the rescission of the 2024 Statement of Policy and the reinstatement of the FDIC's Bank Merger Statement of Policy that was in effect prior to 2024 is a "significant regulatory action."

B. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA),¹⁵ the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The Bank Merger Statement of Policy does not create any new or revise any existing collections of information under the PRA. Therefore, no information collection request will be submitted to the OMB for review.

V. Bank Merger Statement of Policy

The text of the Bank Merger Statement of Policy is as follows:

FDIC Statement of Policy on Bank Merger Transactions

I. Introduction

Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), popularly known as the "Bank Merger Act," requires the prior written approval of the FDIC before any insured depository institution may:

(1) Merge or consolidate with, purchase or otherwise acquire the assets of, or assume any deposit liabilities of, another insured depository institution if the resulting institution is to be a state nonmember bank, or

(2) Merge or consolidate with, assume liability to pay any deposits or similar liabilities of, or transfer assets and deposits to, a noninsured bank or institution.

Institutions undertaking one of the above described "merger transactions" must file an application with the FDIC. Transactions that do not involve a transfer of deposit liabilities typically do not require prior FDIC approval under the Bank Merger Act, unless the transaction involves the acquisition of all or substantially all of an institution's assets.

The Bank Merger Act prohibits the FDIC from approving any proposed merger transaction that would result in

a monopoly, or would further a combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States. Similarly, the Bank Merger Act prohibits the FDIC from approving a proposed merger transaction whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade. An exception may be made in the case of a merger transaction whose effect would be to substantially lessen competition, tend to create a monopoly, or otherwise restrain trade, if the FDIC finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served. For example, the FDIC may approve a merger transaction to prevent the probable failure of one of the institutions involved.

In every proposed merger transaction, the FDIC must also consider the financial and managerial resources and future prospects of the existing and proposed institutions, the convenience and needs of the community to be served, and the effectiveness of each insured depository institution involved in the proposed merger transaction in combating money-laundering activities, including in overseas branches.

II. Application Procedures

1. *Application filing.* Application forms and instructions may be obtained from the appropriate FDIC office. Completed applications and any other pertinent materials should be filed with the appropriate FDIC office. The application and related materials will be reviewed by the FDIC for compliance with applicable laws and FDIC rules and regulations. When all necessary information has been received, the application will be processed and a decision rendered by the FDIC.

2. *Expedited processing.* Section 303.64 of the FDIC rules and regulations (12 CFR 303.64) provides for expedited processing, which the FDIC will grant to eligible applicants. In addition to the eligible institution criteria provided for in § 303.2 (12 CFR 303.2), § 303.64 provides expedited processing criteria specifically applicable to proposed merger transactions.

3. *Publication of notice.* The FDIC will not take final action on a merger application until notice of the proposed merger transaction is published in a newspaper or newspapers of general circulation in accordance with the

requirements of section 18(c)(3) of the Federal Deposit Insurance Act. See § 303.65 of the FDIC rules and regulations (12 CFR 303.65). The applicant must furnish evidence of publication of the notice to the appropriate FDIC office following compliance with the publication requirement. See § 303.7(b) of the FDIC rules and regulations (12 CFR 303.7(b)).

4. *Reports on competitive factors.* As required by law, the FDIC will request a report on the competitive factors involved in a proposed merger transaction from the Attorney General. This report must ordinarily be furnished within 30 days, and the applicant upon request will be given an opportunity to submit comments to the FDIC on the contents of the competitive factors report.

5. *Notification of the Attorney General.* After the FDIC approves any merger transaction, the FDIC will immediately notify the Attorney General. Generally, unless it involves a probable failure, an emergency exists requiring expeditious action, or it is solely between an insured depository institution and one or more of its affiliates, a merger transaction may not be consummated until 30 calendar days after the date of the FDIC's approval. However, the FDIC may prescribe a 15-day period, provided the Attorney General concurs with the shorter period.

6. *Merger decisions available.* Applicants for consent to engage in a merger transaction may find additional guidance in the reported bases for FDIC approval or denial in prior merger transaction cases compiled in the FDIC's annual "Merger Decisions" report. Reports may be obtained from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1005, Arlington, VA 22226. Reports may also be viewed at <https://www.fdic.gov>.

III. Evaluation of Merger Applications

The FDIC's intent and purpose is to foster and maintain a safe, efficient, and competitive banking system that meets the needs of the communities served. With these broad goals in mind, the FDIC will apply the specific standards outlined in this Statement of Policy when evaluating and acting on proposed merger transactions.

Competitive Factors

In deciding the competitive effects of a proposed merger transaction, the FDIC will consider the extent of existing competition between and among the merging institutions, other depository institutions, and other providers of similar or equivalent services in the

¹⁵ 44 U.S.C. 3501 *et seq.*

relevant product market(s) within the relevant geographic market(s).

1. *Relevant geographic market.* The relevant geographic market(s) includes the areas in which the offices to be acquired are located and the areas from which those offices derive the predominant portion of their loans, deposits, or other business. The relevant geographic market also includes the areas where existing and potential customers impacted by the proposed merger transaction may practically turn for alternative sources of banking services. In delineating the relevant geographic market, the FDIC will also consider the location of the acquiring institution's offices in relation to the offices to be acquired.

2. *Relevant product market.* The relevant product market(s) includes the banking services currently offered by the merging institutions and to be offered by the resulting institution. In addition, the product market may also include the functional equivalent of such services offered by other types of competitors, including other depository institutions, securities firms, or finance companies. For example, share draft accounts offered by credit unions may be the functional equivalent of demand deposit accounts. Similarly, captive finance companies of automobile manufacturers may compete directly with depository institutions for automobile loans, and mortgage bankers may compete directly with depository institutions for real estate loans.

3. *Analysis of competitive effects.* In its analysis of the competitive effects of a proposed merger transaction, the FDIC will focus particularly on the type and extent of competition that exists and that will be eliminated, reduced, or enhanced by the proposed merger transaction. The FDIC will also consider the competitive impact of providers located outside a relevant geographic market where it is shown that such providers individually or collectively influence materially the nature, pricing, or quality of services offered by the providers currently operating within the geographic market.

The FDIC's analysis will focus primarily on those services that constitute the largest part of the businesses of the merging institutions. In its analysis, the FDIC will use whatever analytical proxies are available that reasonably reflect the dynamics of the market, including deposit and loan totals, the number and volume of transactions, contributions to net income, or other measures. Initially, the FDIC will focus on the respective

shares of total deposits¹⁶ held by the merging institutions and the various other participants with offices in the relevant geographic market(s), unless the other participants' loan, deposit, or other business varies markedly from that of the merging institutions. Where it is clear, based on market share considerations alone, that the proposed merger transaction would not significantly increase concentration in an unconcentrated market, a favorable finding will be made on the competitive factor.

Where the market shares of the merging institutions are not clearly insignificant, the FDIC will also consider the degree of concentration within the relevant geographic market(s) using the Herfindahl-Hirschman Index (HHI)¹⁷ as a primary measure of market concentration. For purposes of this test, a reasonable approximation for the relevant geographic market(s) consisting of one or more predefined areas may be used. Examples of such predefined areas include counties, the Bureau of the Census Metropolitan-Statistical Areas (MSAs), or Rand-McNally Ranally Metro Areas (RMAs).

The FDIC normally will not deny a proposed merger transaction on antitrust grounds (absent objection from the Department of Justice) where the post-merger HHI in the relevant geographic market(s) is 1,800 points or less or, if it is more than 1,800, it reflects an increase of less than 200 points from the pre-merger HHI. Where a proposed merger transaction fails this initial concentration test, the FDIC will consider more closely the various competitive dynamics at work in the market, taking into account a variety of factors that may be especially relevant and important in a particular proposal, including:

- The number, size, financial strength, quality of management, and aggressiveness of the various participants in the market;
- The likelihood of new participants entering the market based on its attractiveness in terms of population,

income levels, economic growth, and other features;

- Any legal impediments to entry or expansion; and
- Definite entry plans by specifically identified entities.

In addition, the FDIC will consider the likelihood that new entrants might enter the market by less direct means, for example, electronic banking with local advertisement of the availability of such services. This consideration will be particularly important where there is evidence that the mere possibility of such entry tends to encourage competitive pricing and to maintain the quality of services offered by the existing competitors in the market.

The FDIC will also consider the extent to which the proposed merger transaction likely would create a stronger, more efficient institution able to compete more vigorously in the relevant geographic markets.

4. *Consideration of the public interest.* The FDIC will deny any proposed merger transaction whose overall effect likely would be to reduce existing competition substantially by limiting the service and price options available to the public in the relevant geographic market(s), unless the anticompetitive effects of the proposed merger transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served. For this purpose, the applicant must show by clear and convincing evidence that any claimed public benefits would be both substantial and incremental and generally available to seekers of banking services in the relevant geographic market(s) and that the expected benefits cannot reasonably be achieved through other, less anticompetitive means.

Where a proposed merger transaction is the least costly alternative to the probable failure of an insured depository institution, the FDIC may approve the merger transaction even if it is anticompetitive.

Prudential Factors

The FDIC does not wish to create larger weak institutions or to debilitate existing institutions whose overall condition, including capital, management, and earnings, is generally satisfactory. Consequently, apart from competitive considerations, the FDIC normally will not approve a proposed merger transaction where the resulting institution would fail to meet existing capital standards, continue with weak or unsatisfactory management, or whose earnings prospects, both in terms of quantity and quality, are weak, suspect,

¹⁶ In many cases, total deposits will adequately serve as a proxy for overall share of the banking business in the relevant geographic market(s); however, the FDIC may also consider other analytical proxies.

¹⁷ The HHI is a statistical measure of market concentration and is also used as the principal measure of market concentration in the Department of Justice's Merger Guidelines. The HHI for a given market is calculated by squaring each individual competitor's share of total deposits within the market and then summing the squared market share products. For example, the HHI for a market with a single competitor would be: $100^2 = 10,000$; for a market with five competitors with equal market shares, the HHI would be: $20^2 + 20^2 + 20^2 + 20^2 + 20^2 = 2,000$.

or doubtful. In assessing capital adequacy and earnings prospects, particular attention will be paid to the adequacy of the allowance for loan and lease losses. In evaluating management, the FDIC will rely to a great extent on the supervisory histories of the institutions involved and of the executive officers and directors that are proposed for the resultant institution. In addition, the FDIC may review the adequacy of management's disclosure to shareholders of the material aspects of the merger transaction to ensure that management has properly fulfilled its fiduciary duties.

Convenience and Needs Factor

In assessing the convenience and needs of the community to be served, the FDIC will consider such elements as the extent to which the proposed merger transaction is likely to benefit the general public through higher lending limits, new or expanded services, reduced prices, increased convenience in utilizing the services and facilities of the resulting institution, or other means. The FDIC, as required by the Community Reinvestment Act, will also note and consider each institution's Community Reinvestment Act performance evaluation record. An unsatisfactory record may form the basis for denial or conditional approval of an application.

Anti-Money Laundering Record

In every case, the FDIC will take into consideration the effectiveness of each insured depository institution involved in the proposed merger transaction in combating money-laundering activities, including in overseas branches. In this regard, the FDIC will consider the adequacy of each institution's programs, policies, and procedures relating to anti-money laundering activities; the relevant supervisory history of each participating institution, including their compliance with anti-money laundering laws and regulations; and the effectiveness of any corrective program outstanding. The FDIC's assessment may also incorporate information made available to the FDIC by the Department of the Treasury, other Federal or State authorities, and/or foreign governments. Adverse findings may warrant correction of identified problems before consent is granted, or the imposition of conditions. Significantly adverse findings in this area may form the basis for denial of the application.

Special Information Requirement if Applicant Is Affiliated With or Will Be Affiliated With an Insurance Company

If the institution that is the subject of the application is, or will be, affiliated with a company engaged in insurance activities that is subject to supervision by a state insurance regulator, the applicant must submit the following information as part of its application: (1) the name of insurance company; (2) a description of the insurance activities that the company is engaged in and has plans to conduct; and (3) a list of each state and the lines of business in that state which the company holds, or will hold, an insurance license. Applicant must also indicate the state where the company holds a resident license or charter, as applicable.

IV. Related Considerations

1. *Interstate bank merger transactions.* Where a proposed transaction is an interstate merger transaction between insured banks, the FDIC will consider the additional factors provided for in section 44 of the Federal Deposit Insurance Act, 12 U.S.C. 1831u.

2. *Interim merger transactions.* An interim institution is a state- or federally-chartered institution that does not operate independently, but exists, normally for a very short period of time, solely as a vehicle to accomplish a merger transaction. In cases where the establishment of a new or interim institution is contemplated in connection with a proposed merger transaction, the applicant should contact the FDIC to discuss any relevant deposit insurance requirements. In general, a merger transaction (other than a purchase and assumption) involving an insured depository institution and a federal interim depository institution will not require an application for deposit insurance, even if the federal interim depository institution will be the surviving institution.

3. *Branch closings.* Where banking offices are to be closed in connection with the proposed merger transaction, the FDIC will review the merging institutions' conformance to any applicable requirements of section 42 of the FDI Act concerning notice of branch closings as reflected in the Interagency Policy Statement Concerning Branch Closing Notices and Policies. See 64 FR 34844 (Jun. 29, 1999).

4. *Legal fees and other expenses.* The commitment to pay or payment of unreasonable or excessive fees and other expenses incident to an application reflects adversely upon the management of the applicant institution. The FDIC will closely review expenses for

professional or other services rendered by present or prospective board members, major shareholders, or other insiders for any indication of self-dealing to the detriment of the institution. As a matter of practice, the FDIC expects full disclosure to all directors and shareholders of any arrangement with an insider. In no case will the FDIC approve an application where the payment of a fee, in whole or in part, is contingent upon any act or forbearance by the FDIC or by any other federal or state agency or official.

5. *Trade names.* Where an acquired bank or branch is to be operated under a different trade name than the acquiring bank, the FDIC will review the adequacy of the steps taken to minimize the potential for customer confusion about deposit insurance coverage. Applicants may refer to the Interagency Statement on Branch Names for additional guidance. See FDIC, Financial Institution Letter, 46–98 (May 1, 1998).

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on May 20, 2025.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2025–12493 Filed 7–2–25; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 302

[Docket No.: 250626–0114]

RIN 0610–AA87

Amendment to Environment Regulation

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Through this final rule, the Economic Development Administration (EDA), U.S. Department of Commerce, is amending its environmental regulation. Amending this regulation is necessary to remove references to the Council on Environmental Quality (CEQ)'s National Environmental Policy Act (NEPA) implementing regulations, which CEQ has rescinded, and to clarify EDA internal staffing of Environmental Officers.

DATES: This rule is effective July 3, 2025.

FOR FURTHER INFORMATION CONTACT: Jeffrey Roberson, Chief Counsel, Office

of the Chief Counsel, Economic Development Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Suite 72023, Washington, DC 20230; telephone: (202) 482-1315; email: jroberson@eda.gov.

SUPPLEMENTARY INFORMATION:

Background

EDA's enabling statute is the Public Works and Economic Development Act of 1965 (PWEDA) and EDA's regulations are codified at 13 CFR Chapter III. The CEQ issued an interim final rule, (90 FR 10610, February 25, 2025; 90 FR 12690, March 19, 2025), effective April 11, 2025, to remove the existing implementing regulations for the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, as amended (NEPA). This action was necessitated by and is consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 29, 2025), in which President Trump rescinded President Carter's E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make rules to begin with.

EDA's environmental regulation at 13 CFR 302.1 is intended to inform prospective and current grant recipients of their environmental responsibilities under all federal environmental laws, regulations, and Executive Orders. The current regulation also contains a specific reference to CEQ's NEPA implementing regulations and discusses some requirements under NEPA generally. In light of CEQ's removal of its NEPA implementing regulations and the fact that EDA has its own NEPA policies at Directive 17-02.2, it is necessary to update EDA's environmental regulation to remove references to CEQ's NEPA implementing procedures.

In addition, EDA is updating language in the regulation to make it consistent with EDA's internal staffing practices. The regulation formerly discussed that an EDA Environmental Officer is associated with an EDA regional office. However, due to staffing changes, EDA no longer necessarily assigns an Environmental Officer on a regional basis, but instead on a case-by-case basis. This regulation does not provide any additional guidance and only clarifies an internal staffing practice.

This rule is part of the overall package of updates to EDA's environmental practices to ensure consistency with CEQ's rescission of its implementing regulations and with governmentwide updates to agency NEPA procedures,

which EDA is executing through a separate action to Directive 17.02-2. EDA is revising Directive 17.02-2 in response to E.O. 14154 as well as Congressional amendments to NEPA and recent court cases.

Congress amended NEPA in significant part in the Fiscal Responsibility Act of 2023 (FRA), Public Law 118-5, signed on June 3, 2023, adding substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ and individual acting agencies had previously addressed in their own procedures. EDA recognized the need to update its NEPA implementing procedures in light of these significant legislative changes. Since EDA's procedures were originally designed as a supplement to CEQ's NEPA regulations, the EDA had been awaiting CEQ action before revising its procedures, consistent with CEQ direction. *See* 40 CFR 1507.3(b) (2024); *see also* 86 FR 34154 (June 29, 2021). However, with CEQ's regulations now rescinded, and with EDA's NEPA implementing procedures still unmodified more than two years after this significant legislative overhaul, it is exigent that EDA move quickly to conform its procedures to the statute as amended.

Additionally, the Supreme Court on May 29, 2025 issued its decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S.Ct. 1497 (2025), in which it described the "transform[ation]" of NEPA from its roots as "a modest procedural requirement," into a significant "substantive roadblock" that "paralyze[s]" "agency decisionmaking." *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a "course correction" mandating that courts give "substantial deference" to reasonable agency conclusions underlying its NEPA process. *Id.* at 1513-14. But the Court also acknowledged, and through its course correction sought to address, the effect on "litigation-averse agencies" which, in light of judicial "micromanage[ment]," had been "tak[ing] ever more time and [] prepar[ing] ever longer EISs for future projects." *Id.* at 1513. EDA, thus, is issuing this final rule as part of its project of revising its NEPA implementing procedures to align its actions with the Supreme Court's decision and streamline its process of ensuring reasonable NEPA decisions.

Classification

Administrative Procedure Act and Regulatory Flexibility Act

Pursuant to 5 U.S.C. 553(b)(A), notice and comment are not required because this is a rule of agency organization, procedure, or practice inasmuch as it updates an internal staffing structure. This rule also does not substantively affect EDA's implementation of NEPA which EDA administers through Directive 17-02.2, not the regulation at 13 CFR 302.1. As previously stated, the Directive is being updated in response to E.O. 14154 as well as Congressional amendments to NEPA and recent court cases. Rather, EDA is simply removing a cross-reference to a set of CEQ NEPA implementing procedures that CEQ rescinded.

In addition, to the extent that prior notice and solicitation of public comment would otherwise be required, EDA finds that there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary. 5 U.S.C. 553(b)(B). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is "impracticable, unnecessary, or contrary to the public interest," 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). This rule amends an environmental regulation to remove references to regulations that are no longer in force and updates an internal staffing structure so that is consistent with current practices. Therefore, public comment would serve no purpose and is unnecessary, and there is accordingly good cause to forgo notice-and-comment-procedures. There is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. As this rule does not alter the rights or responsibilities of any party, delaying implementation of this rule serves no purpose. Moreover, EDA is removing references to regulations that are no longer in force, against the backdrop of an executive-branch wide revision of NEPA regulations, which includes EDA separately promulgating new NEPA procedures in its Directive 17-02.2. Confusion would result if part 302's references to defunct regulations remained on the books; good cause lies in promptly conforming it instead to the existing state of law.

Because prior notice and an opportunity for public comment are not required pursuant to 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

inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Executive Orders No. 12866, 13563, and 14192

This final rule was drafted in accordance with Executive Orders 12866, 13563, and 14192. OMB has determined that this rule is significant for purposes of Executive Orders 12866 and 13563, and has reviewed. This final rule is an Executive Order 14192 deregulatory action.

Congressional Review Act

This final rule is not a “major rule” under the Congressional Review Act (5 U.S.C. 801 *et seq.*).

Executive Order No. 13132

This final rule does not contain policies that have federalism implications.

Paperwork Reduction Act

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 13 CFR Part 302

Community development, Grant programs—business, Grant programs—housing and community development, Technical assistance.

For the reasons discussed in the preamble, EDA amends 13 CFR part 302 as follows:

PART 302—GENERAL TERMS AND CONDITIONS FOR INVESTMENT ASSISTANCE

■ 1. The authority citation for part 302 continues to read as follows:

Authority: 19 U.S.C. 2341 *et seq.*; 42 U.S.C. 3150; 42 U.S.C. 3152; 42 U.S.C. 3153; 42 U.S.C. 3192; 42 U.S.C. 3193; 42 U.S.C. 3194; 42 U.S.C. 3211; 42 U.S.C. 3212; 42 U.S.C. 3216; 42 U.S.C. 3218; 42 U.S.C. 3220; 42 U.S.C. 5141; 15 U.S.C. 3701; Department of Commerce Delegation Order 10–4.

■ 2. Revise § 302.1 to read as follows:

§ 302.1 Environment.

EDA will undertake environmental reviews of projects in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (Pub. L. 91–190; 42 U.S.C. 4321 *et seq.*) (“NEPA”), and all applicable Federal environmental statutes, regulations, and Executive Orders. Depending on the project’s location, environmental information concerning specific projects may be obtained from the individual serving as the Environmental Officer for the proposed action.

Dated: June 27, 2025.

Benjamin Page,

Deputy Assistant Secretary and Chief Operating Officer.

[FR Doc. 2025–12313 Filed 7–1–25; 2:30 pm]

BILLING CODE 3510–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2025–0182; Airspace Docket No. 22–AAL–75]

RIN 2120–AA66

Modification of Class E Airspace; Wrangell Airport, Wrangell, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace extending upward from 700 feet above the surface at Wrangell Airport, Wrangell, AK; removes redundant Class E airspace extending upward from 1,200 feet above the surface; and makes administrative updates to the airport’s legal description. In sum, these actions support the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Effective date 0901 UTC, October 2, 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. An electronic copy of this document may also be downloaded from the Office of the Federal Register’s website at www.federalregister.gov.

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: Jeffrey Drasin, Federal Aviation

Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2248.

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 Class E airspace extending upward from 700 feet above the surface, removes Class E airspace extending from 1,200 feet above the surface, and updates the airport’s legal description, to support IFR operations at Wrangell Airport, AK.

History

The FAA published an NPRM for Docket No. FAA–2025–0182 in the **Federal Register** (90 FR 14217; March 31, 2025), proposing to modify Class E airspace at Wrangell Airport, Wrangell, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E airspace areas are published in paragraph 6005 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, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by modifying the Class E airspace extending upward from 700 feet or more above the surface at Wrangell Airport, Wrangell, AK, to more appropriately contain flight procedures. This action also expands Class E airspace coverage

to the north-northwest and southeast, removes unnecessary Class E coverage to the west-northwest, and removes redundant Class E airspace areas that extend upward from 1,200 feet above the surface.

The terrain-driven airspace design resulting from the modifications above better contains departing IFR operations until reaching 1,200 feet above the surface to the south and southwest on the LASOE TWO Area Navigation (RNAV) (Required Navigation Performance [RNP]) Runway (RWY) 10 DEPARTURE, LASOE TWO RNAV (RNP) RWY 28 DEPARTURE, KAJBU FIVE RNAV (RNP) RWY 10 DEPARTURE, LEVEL ISLAND THREE DEPARTURE (OBSTACLE), and SUMNER TWO (RNAV) DEPARTURE procedures. The action also accommodates arriving IFR operations below 1,500 feet above the surface to the north on the RNAV (Global Positioning System [GPS]) P RWY 10 and RNAV (GPS)-E approach procedures.

Additionally, this action removes redundant Class E airspace areas that extend upward from 1,200 and 5,700 feet above the surface at Wrangell Airport as the Southeast En Route Domestic Airspace Area provides sufficient airspace containment.

Finally, references to the Wrangell nondirectional beacon, Wrangell localizer, and Level Island very high frequency omnidirectional range/distance measuring equipment are removed from line three of the legal description's text header as they are no longer needed to describe the airspace.

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental

Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

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 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

* * * * *

AAL AK E5 Wrangell, AK [Amended]

Wrangell Airport, AK
(Lat. 56°29'04" N, long. 132°22'11" W)

That airspace extending upward from 700 feet above the surface within a 5.6-mile radius of the airport, within five miles on either side of the 151° bearing extending from the 5.6-mile radius to 9.5 miles southeast of the airport, within 5.6 miles on the southwest side of the 320° bearing extending from the 5.6-mile radius to 11.8 miles northwest of the airport, and within 5.6 miles on the northeast side of the 320° bearing extending from the 5.6-mile radius to 13.5 miles northwest of the airport.

* * * * *

Issued in Des Moines, Washington, on June 16, 2025.

B.G. Chew,

*Group Manager, Operations Support Group,
Western Service Center.*

[FR Doc. 2025–12429 Filed 7–2–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2025–0183; Airspace
Docket No. 23–AAL–66]

RIN 2120–AA66

Modification of Class E Airspace; Petersburg James A. Johnson Airport, Petersburg, AK

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace extending upward from 700 feet above the surface at Petersburg James A. Johnson Airport; removes redundant Class E airspace; and makes administrative updates to the airport's legal description. This action supports the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Effective date 0901 UTC, October 2, 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. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at www.federalregister.gov.

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: Jeffrey Drasin, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2248.

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 Class E airspace and updates the airport's legal description to support IFR operations at Petersburg James A. Johnson Airport, Petersburg, AK.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA 2025–0183 in the **Federal Register** (90 FR 14223; March 31, 2025), proposing to modify the Class E airspace Petersburg James A. Johnson Airport, Petersburg, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Differences From the NPRM

Subsequent to the publication of the NPRM, the FAA identified that the word “from” was inadvertently omitted from the end of the Class E airspace legal description regarding the northern airspace extension. Accordingly, this action corrects the text to read “extending from 1.7 miles”. This is a ministerial change that does not alter the airspace boundaries or operating requirements. Therefore, the FAA has determined that good cause exists for not recirculating the proposal for public comment.

Incorporation by Reference

Class E5 airspace designations are published in paragraph 6005 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. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11J, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by modifying the Class E airspace extending upward from 700 feet above the surface and updating the

administrative portion of the legal description at Petersburg James A. Johnson Airport, AK.

While the existing airspace contains widespread Class E coverage over an approximate 75 by 25-mile area, only that airspace within 6.5 miles of the airport extends upward from 700 feet. This action expands that airspace to within 12.3 miles of the airport and adds a narrow segment that extends 16.2 miles north of the airport. These changes will appropriately contain arriving IFR operations below 1,500 feet above the surface and departing and missed approach IFR operations until reaching 1,200 feet above the surface.

Next, this proposal removes multiple segments of Class E airspace that extend upward from 1,200 feet above the surface to the north and southeast, 3,300 feet above the surface to the south, 4,200 feet above the surface to the south and southeast, and 5,700 feet above the surface to the northwest. These airspace areas are redundant given that the existing southeast E6 domestic airspace that blankets the region provides sufficient controlled airspace for aircraft to transition into and out of the terminal and en route environments.

Finally, administrative changes are made to lines two and three of the text header for the airport's legal description. The airport name in line two is incorrect and is changed to “Petersburg James A. Johnson Airport” to align with the FAA's database. Line three removes unnecessary descriptive references to the Fredericks Point nondirectional beacon, Petersburg localizer, and Level Island very high frequency omnidirectional range/distance measuring equipment.

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 qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

■ 1. The authority citation for 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 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Petersburg, AK [Amended]

Petersburg James A. Johnson Airport, AK (Lat. 56°48'05″ N, long. 132°56'46″ W)

That airspace extending upward from 700 feet above the surface within the airport's 7.2-mile radius, between the 015° and 145° bearings extending from the 7.2-mile radius to the 9.6-mile radius, between the 145° and 277° bearings extending from the 7.2-mile radius to the 12.3-mile radius, and within .4 miles west and 1.7 miles east of the 005° bearing extending from the 7.2-mile radius to 16.2 miles north of the airport.

* * * * *

Issued in Des Moines, Washington, on June 30, 2025.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2025–12430 Filed 7–2–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2025–0769; Airspace
Docket No. 25–ASO–5]

RIN 2120–AA66

**Amendment of Class D and Class E2,
Amendment of Class E4, and
Amendment of Class E5 Airspace Over
New Bern, NC**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E airspace at Coastal Carolina Regional Airport, New Bern, NC, due to the current designated airspace not properly containing instrument flight rule operations. Additionally, this action amends Class E4 airspace at Coastal Carolina Regional Airport, New Bern, NC, due to portions no longer meeting the requirements of its designation. Lastly, this action amends the Class E5 airspace that no longer meets the requirements for its specific designation due to the amendment or cancellation of Standard Instrument Approach Procedures. Controlled airspace is necessary for the safety and management of IFR operations in the area for existing instrument approaches.

DATES: Effective 0901 UTC, October 2, 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 a day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at www.federalregister.gov.

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

FOR FURTHER INFORMATION CONTACT:

Christopher Stocking, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–5887.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it amends Class D, E2, E4, and E5 airspace in New Bern, NC.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA 2025–0769 in the **Federal Register** (90 FR 18826; May 2, 2025), proposing to amend Class D, E2, E4, and E5 airspace at Coastal Carolina Regional Airport, New Bern, NC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received, stating that the coordinates for CarolinaEast Medical Center Heliport had an error. See “Differences from the NPRM” for corrective action taken in response.

Differences From the NPRM

An editorial change was made to correct the spelling of CarolinaEast Medical Center Heliport removing the space between Carolina and East in the NPRM. Additionally, the coordinates for CarolinaEast Medical Center Heliport were published in the NPRM incorrectly. The latitude for CarolinaEast Medical Center Heliport should not be (“W”); it should be an (“N”) and has been corrected in this final rule. As this constitutes a ministerial change that does not alter legal obligations associated with the airspace, the FAA has determined that good cause exists for not re-circulating the NPRM for public notice and comment.

Incorporation by Reference

Class D and E airspace designations are published in paragraphs 5000, 6002, 6004, and 6005 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, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 to amend Class D, E2, E4, and E5 airspace for Coastal Carolina Regional Airport, New Bern, NC.

This action amends both the Class D and Class E2 airspace extending upward from the surface to and including 2,500 feet MSL for Coastal Carolina Regional Airport, New Bern, NC, by increasing it to a 4.3-mile radius as the current radius of 4.0-miles does not properly contain instrument flight rules operations. These airspace areas encompass the same airspace but are separately activated by NOTAM.

Additionally, this action amends the Class E4 airspace by removing that airspace that extends upward from the surface within 2.4 miles each side of the New Bern VOR/DME 210° radial, extending from the 4-mile radius to 7 miles southwest of the VOR/DME. The Class E4 airspace will also be amended from the surface within 2.4 miles each side of the New Bern VOR/DME 038° radial, by extending from the 4.3-mile radius to 7 miles northeast of the New Bern VOR/DME.

Lastly, this action amends Class E5 airspace extending from 700 feet above the surface upward and within 2 miles each side of the New Bern VOR/DME 210° radial, extending from the 7-mile radius of the New Bern VOR/DME to the 10-mile radius of the New Bern VOR/DME for Coastal Carolina Regional Airport, New Bern, NC. This reconfiguration will properly contain the currently published standard instrument approach procedures. Controlled airspace is necessary for the safety and management of IFR operations for existing instrument approaches at Coastal Carolina Regional Airport, New Bern, NC.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11], Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO NC D New Bern, NC [Amended]

Coastal Carolina Regional Airport, NC
(Lat. 35°04′22″ N, long. 77°02′35″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of Coastal Carolina Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ASO NC E2 New Bern, NC [Amended]

Coastal Carolina Regional Airport, NC
(Lat. 35°04′22″ N, long. 77°02′35″ W)

Within a 4.3-mile radius of Coastal Carolina Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

ASO NC E4 New Bern, NC [Amended]

Coastal Carolina Regional Airport, NC
(Lat. 35°04′22″ N, long. 77°02′35″ W)

New Bern VOR/DME
(Lat. 35°04′23″ N, long. 77°02′42″ W)

That airspace extending upward from the surface within 2.4 miles each side of the New Bern VOR/DME 038° radial, extending from the 4.3-mile radius to 7 miles northeast of the VOR/DME.

* * * * *

Paragraph 6005 Class E Airspace.

* * * * *

ASO NC E5 New Bern, NC [Amended]

Coastal Carolina Regional Airport, NC
(Lat. 35°04′22″ N, long. 77°02′35″ W)

New Bern VOR/DME
(Lat. 35°04′23″ N, long. 77°02′42″ W)
CarolinaEast Medical Center Heliport, NC
(Lat. 35°06′55″ N, long. 77°03′51″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Coastal Carolina Regional Airport and within 2.0 miles each side of the New Bern VOR/DME 210° radial, extending from the 7-mile radius of the New Bern VOR/DME to the 10-mile radius of the New Bern VOR/DME and within a 6-mile radius of CarolinaEast Medical Center Heliport.

* * * * *

Issued in College Park, Georgia, on June 30, 2025.

Andreese C. Davis,

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

[FR Doc. 2025–12405 Filed 7–2–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 380, 385

[Docket No. RM25–11–000; ORDER NO. 908]

Removal of References to the Council on Environmental Quality’s Rescinded Regulations

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is issuing this final rule to revise its regulations implementing the National Environmental Policy Act and its Rules of Practice and Procedure to remove reference to the Council on Environmental Quality’s rescinded regulations.

DATES: This rule will become effective August 18, 2025.

FOR FURTHER INFORMATION CONTACT:

Thomas Blonkowski, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8950. thomas.blonkowski@ferc.gov

Brandon Cherry, Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8328. brandon.cherry@ferc.gov

SUPPLEMENTARY INFORMATION:

I. Background

1. The Federal Energy Regulatory Commission (Commission) is issuing this final rule to remove references to the Council on Environmental Quality’s (CEQ) rescinded regulations from the Commission’s part 380 Regulations Implementing the National Environmental Policy Act¹ (NEPA) and part 385 Rules of Practice and Procedure.²

II. Discussion

2. The Commission’s regulations, since 1970, have included provisions to implement NEPA.³ On December 17, 1987, the Commission revised its regulations to include its part 380 regulations implementing NEPA.⁴ In the 1987 rulemaking, the Commission explained that the part 380 regulations require applicants to provide specific information on the environmental

¹ 18 CFR pt. 380.

² 18 CFR pt. 385.

³ 35 FR 18958 (Dec. 15, 1970).

⁴ 52 FR 47897 (Dec. 17, 1987).

impacts of a proposed project under the Natural Gas Act or Federal Power Act and develop specific procedures for the Commission to evaluate project applications.⁵ The Commission also clarified that it was voluntarily complying with the CEQ regulations.⁶

3. CEQ removed its NEPA implementing regulations from the Code of Federal Regulations, 40 CFR 1500–1508, effective April 11, 2025.⁷ As CEQ explained in its rulemaking, Executive Order 14154, *Unleashing American Energy*,⁸ repealed Executive Order 11991, *Relating to Protection and Enhancement of Environmental Quality*, which directed CEQ to promulgate regulations and required Federal agencies to comply with the CEQ regulations.⁹

4. The Commission's regulations include reference to CEQ's rescinded regulations at 18 CFR 380.1, 380.3, 380.4, 380.7, 380.8, 380.9, and 385.2201. As CEQ's regulations have been rescinded, this rulemaking removes those references and, where applicable, the citation to CEQ's regulation is replaced with a citation to NEPA.

III. Regulatory Planning and Review

5. Executive Order 12866, *Regulatory Planning and Review*, as amended by Executive Orders 14215, *Ensuring Accountability for All Agencies* and 13563, *Improving Regulation and Regulatory Review*, directs agencies to assess the costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has designated this final rule “a significant regulatory action” as defined under section 3(f) of Executive Order 12866, though not economically significant under 3(f)(1). Accordingly, the Commission submitted this final rule to Office of Management and Budget (OMB) for Executive Order 12866 review. This final rule is considered a deregulatory action under Executive Order 14192, *Unleashing Prosperity Through Deregulation*.

IV. Information Collection Statement

6. OMB regulations implementing the Paperwork Reduction Act require agencies to seek approval for information collection requirements imposed by agency rules.¹⁰ This final rule, however, results in no new, additional, or different reporting burdens. This final rule does not require applicants under the Federal Power Act or Natural Gas Act, or indeed any participant in a Commission proceeding, to file new, additional, or different information, and it does not change the frequency with which they must file information.

V. Environmental Analysis

7. Under NEPA, the Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.¹¹ Section 380.4 of the Commission's regulations sets out categorical exclusions for projects or actions that do not individually or cumulatively have a significant effect on the human environment, which negates the need to prepare an Environmental Assessment or Environmental Impact Statement.¹² Section 380.4(a)(2)(ii) provides a categorical exclusion for the promulgation of rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.¹³ This rule is clarifying and corrective as it amends the Commission's regulations to remove references to CEQ's rescinded regulations. Accordingly, this rulemaking is categorically excluded from the requirement to prepare an Environmental Assessment or Environmental Impact Statement under that provision.

VI. Regulatory Flexibility Act

8. The Regulatory Flexibility Act of 1980 (RFA)¹⁴ generally requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities. This final rule removes non-nugatory references to rescinded regulations, and it will not have such an impact. The Commission therefore certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Accordingly, an analysis under the RFA is not required.

VII. Document Availability

9. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>).

10. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

11. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at public.reference@ferc.gov.

VIII. Effective Date and Congressional Notification

12. The provisions of 5 U.S.C. 801 regarding Congressional review of final rules do not apply to this final rule because the rule concerns the removal of references to CEQ's rescinded regulations and therefore is a rule of agency procedure or practice that will not substantially affect the rights or obligations of non-agency parties.¹⁵

13. Under 5 U.S.C. 553(b)(B), notice-and-comment rulemaking procedures are not required when the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Notice-and-comment procedures are unnecessary for this rule because it merely clarifies and corrects the Commission's NEPA procedures by removing references to CEQ's rescinded regulations.¹⁶ Public comment would serve no purpose here because the Commission's action removes references to regulatory provisions that, for reasons outside of the Commission's control, have been rendered legally inoperative. In short, CEQ's rescission of its own regulations provides good cause for the Commission to remove without prior

⁵ *Id.* at 47898.

⁶ *Id.*

⁷ Removal of National Environmental Policy Act Implementing Regulations, 90 FR 10610 (Feb. 25, 2025) (rescission effective on April 11, 2025).

⁸ 90 FR 8353 (Jan. 20, 2025).

⁹ 42 FR 26967 (May 25, 1977).

¹⁰ 5 CFR 1320.12.

¹¹ *Reguls. Implementing the Nat'l Env't Policy Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

¹² 18 CFR 380.4.

¹³ *Id.* 380.4(a)(2)(ii).

¹⁴ 5 U.S.C. 601–612.

¹⁵ 5 U.S.C. 804(3)(C).

¹⁶ Removal of National Environmental Policy Act Implementing Regulations, 90 FR 10610 (Feb. 25, 2025) (rescinding 40 CFR 1500–1508, effective April 11, 2025).

solicitation of comment references to CEQ's regulations from the Commission's regulations, so observance of that procedure here is unnecessary.

14. This rule is effective on August 18, 2025.

List of Subjects

18 CFR Part 380

Environmental impact statements, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

Issued: June 30, 2025.

Carlos D. Clay,

Deputy Secretary.

In consideration of the foregoing, the Commission amends parts 380 and 385, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

■ 1. The authority citation for part 380 continues to read as follows:

Authority: 42 U.S.C. 4321–4370h, 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

■ 2. Revise § 380.1 to read as follows:

§ 380.1 Purpose.

The regulations in this part implement the Federal Energy Regulatory Commission's procedures under the National Environmental Policy Act of 1969 (NEPA).

■ 3. Revise § 380.3(a)(2) to read as follows:

§ 380.3 Environmental information to be supplied by an applicant.

(a) * * *

(2) For any proposal not identified in paragraph (a)(1) of this section, any environmental information that the Commission may determine is necessary for compliance with these regulations, NEPA, and other Federal laws such as the Endangered Species Act, the National Historic Preservation Act or the Coastal Zone Management Act.

* * * * *

■ 4. Revise § 380.4(b)(1) to read as follows:

§ 380.4 Projects or actions categorically excluded.

* * * * *

(b) * * *

(1) The Commission and its staff will independently evaluate environmental information supplied in an application and in comments by the public. Where circumstances indicate that an action may be a major Federal action significantly affecting the quality of the human environment, the Commission:

(i) May require an environmental report or other additional environmental information, and

(ii) Will prepare an environmental assessment or an environmental impact statement.

* * * * *

■ 5. Revise § 380.7 to read as follows:

§ 380.7 Format of an environmental impact statement.

In addition to the requirements for an environmental impact statement prescribed in section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C), an environmental impact statement prepared by the Commission will include a section on the literature cited in the environmental impact statement and a staff conclusion section. The staff conclusion section will include summaries of:

(a) The significant environmental impacts of the proposed action;

(b) Any alternative to the proposed action that would have a less severe environmental impact or impacts and the action preferred by the staff;

(c) Any mitigation measures proposed by the applicant, as well as additional mitigation measures that might be more effective;

(d) Any significant environmental impacts of the proposed action that cannot be mitigated; and

(e) References to any pending, completed, or recommended studies that might provide baseline data or additional data on the proposed action.

■ 6. Revise § 380.8 to read as follows:

§ 380.8 Preparation of environmental documents.

The preparation of environmental documents, as defined in section 111(5) of NEPA, 42 U.S.C. 4336e(5), on hydroelectric projects, natural gas facilities, and electric transmission

facilities in national interest electric transmission corridors is the responsibility of the Commission's Office of Energy Projects, 888 First Street NE, Washington, DC 20426, (202) 502–8700. Persons interested in status reports or information on environmental impact statements or other elements of the NEPA process, including the studies or other information the Commission may require on these projects, can contact this office.

■ 7. Revise § 380.9(a) to read as follows:

§ 380.9 Public availability of NEPA documents and public notice of NEPA related hearings and public meetings.

(a)(1) The Commission will comply with the requirements of section 107(c) of NEPA, 42 U.S.C. 4336a(c).

(2) If an action has effects of primarily local concern, the Commission may give additional notice in a Commission order.

* * * * *

PART 385—RULES OF PRACTICE AND PROCEDURE

■ 8. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988); 28 U.S.C. 2461 note (1990); 28 U.S.C. 2461 note (2015).

■ 9. Revise section § 385.2201(g)(1) to read as follows:

§ 385.2201 Rules governing off-the-record communications (Rule 2201).

* * * * *

(g) * * *

(1) Any document, or a summary of the substance of any oral communication, obtained through an exempt off-the-record communication under paragraphs (e)(1)(ii), (iv), (v), (vi) or (vii) of this section, promptly will be submitted to the Secretary and placed in the decisional record of the relevant Commission proceeding, unless the communication was with a cooperating agency as described by 42 U.S.C. 4336e(2), made under paragraph (e)(1)(v) of this section.

* * * * *

[FR Doc. 2025–12464 Filed 7–1–25; 2:30 pm]

BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****23 CFR Part 771****Federal Railroad Administration****49 CFR Part 264****Federal Transit Administration****49 CFR Part 622**

[Docket No. FHWA–2025–0007]

RIN 2125–AF80

RIN 2130–AD05

RIN 2132–AB51

Revision of National Environmental Policy Act Regulations**ACTION:** Interim final rule.

AGENCY: Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), Department of Transportation (DOT).

SUMMARY: FHWA, FRA, and FTA are publishing this interim final rule (IFR) to modify the regulations implementing the National Environmental Policy Act (NEPA) that apply to all three agencies to be consistent with the removal of regulations previously issued by the Council on Environmental Quality (CEQ), the amendments to NEPA included in the section of the Fiscal Responsibility Act of 2023 known as the Building United States Infrastructure through Limited Delays and Efficient Reviews (BUILDER) Act of 2023, and amendments regarding efficient environmental reviews included in the Infrastructure Investment and Jobs Act of 2021. This rule will become effective immediately while the agencies seek comment on what further changes may be appropriate.

DATES: Effective on July 3, 2025. Comments must be received on or before August 4, 2025.

ADDRESSES: You may submit comments identified by the Docket Number FHWA–2025–0007 using any of the following methods:

E-Gov Web: <https://www.regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.

Mail: Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590.

Hand Delivery: U.S. DOT Docket Management System: West Building

Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Submissions must include the agency name, docket number (FHWA–2025–0007), and Regulatory Identification Number (RIN) for this rulemaking (2125–AF80). If you submit your comments by mail, submit two copies. If you wish to receive confirmation that your comments have been received, include a self-addressed stamped postcard. Internet users may submit comments at <https://www.regulations.gov>.

Privacy Act: DOT solicits comments from the public to inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Follow the online instructions for accessing the docket. Alternatively, you may review the documents in person at the street address listed above.

FOR FURTHER INFORMATION CONTACT: For FHWA: Megan Cogburn, Office of Planning, Environment, and Realty, (202) 893–5850, or via email at Megan.Cogburn@dot.gov; Diane Mobley, Office of Chief Counsel, (202) 366–1366, or via email at Diane.Mobley@dot.gov; For FRA: Lana Lau, Office of Environmental Program Management, (202) 923–5314, or via email at Lana.Lau@dot.gov; Faris Mohammed, Office of Chief Counsel, (202) 763–3230, or via email at Faris.Mohammed@dot.gov; For FTA: Megan Blum, Office of Environmental Policy and Programs, (202) 809–4701, or via email at Megan.Blum@dot.gov; Mark Montgomery, Office of Chief Counsel, (505) 820–2061, or via email at mark.montgomery@dot.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document and all comments received may be viewed online through the Federal eRulemaking portal at www.regulations.gov using the docket number listed above. Electronic retrieval help and guidelines are also available at www.regulations.gov. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at www.FederalRegister.gov and the Government Publishing Office's website at www.GovInfo.gov.

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the agencies will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period and after DOT has had the opportunity to review the comments submitted.

I. Background

FHWA, FRA, and FTA are publishing this interim final rule (IFR) modifying their implementing regulations (Part 771) for the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4347, as amended (NEPA). The regulations at 23 CFR part 771 were promulgated to supplement the Council on Environmental Quality's (CEQ's) NEPA regulations. Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 29, 2025), rescinded E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the authority CEQ had relied upon to issue its regulations. The CEQ's regulations have been repealed, effective April 11. *See Removal of National Environmental Policy Act Implementing Regulations* (90 FR 10610; Feb. 25, 2025).

As a result of the foregoing, the regulations at 23 CFR part 771, which implement NEPA for FHWA, FRA, and FTA, must be modified to remove cross-references to the defunct CEQ regulations. Prior to their removal, FHWA, FRA, and FTA followed the procedures contained in the CEQ implementing regulations for any topics not addressed by 23 CFR part 771. Now,

Part 771 needs to be revised to stand on its own.

In addition to removing cross-references to the CEQ regulations, this IFR revises 23 CFR part 771 to reflect amendments to NEPA included in the section of the Fiscal Responsibility Act (FR Act) of 2023 known as the BUILDER Act of 2023, Public Law 118–5, Div. C, Tit. III, § 321 (June 3, 2023) (NEPA Amendments), which streamlines the environmental review process for Federal agencies, and to reflect amendments to Title 23 of the U.S. Code, Sections 139 and 203(e), regarding efficient environmental reviews, included in the Infrastructure Investment and Jobs Act, Public Law 117–58 (Nov. 15, 2021) (IIJA). Consistent with the NEPA Amendments, for instance, the phrase “reasonably foreseeable” has been inserted before the terms “impact” and “effect” throughout the regulation. Footnotes were removed to reduce redundant information that can be found elsewhere. FHWA, FRA, and FTA have supplementary guidance on environmental documents and procedures for their programs available on the internet through the DOT Guidance Portal at <https://transportation.gov/guidance> and <https://www.environment.fhwa.dot.gov>, <https://railroads.dot.gov>, and <https://www.transit.dot.gov>. Revisions to specific sections of the regulation are identified and discussed below, as appropriate. The agencies intend to pursue a future deregulatory rulemaking to further expedite the environmental review process.

II. Section-by-Section Analysis

§ 771.101 Purpose

This section of the regulation is revised to remove references to the CEQ regulations, as well as to modify references to authorities based on amendments to Title 23 of the U.S. Code in the IIJA. Reference to 23 U.S.C. 203(e) has been added to reflect IIJA amendments relating to NEPA implementation and the Federal Lands Transportation Program. Reference to 23 U.S.C. 325 is removed as the statute is repealed. Reference to 49 U.S.C. 5323(c) has also been added to clarify that the procedures set forth in 23 CFR part 771 comply with the statute.

§ 771.105 Policy

This section is revised to reflect changes in terminology introduced by the NEPA Amendments. Section 771.105(a) has been revised to state “a single environmental document” in place of “the environmental review

document.” Section 771.105(c) is revised to add “reasonably foreseeable” as the standard for evaluating the social, economic, and environmental impacts of a proposed transportation improvement.

§ 771.107 Definitions

This section incorporates new definitions for consistency with the NEPA Amendments and 23 U.S.C. 139. The definition “cooperating agency” has been added consistent with the definition provided in NEPA and requirements related to cooperating agencies found in 23 U.S.C. 139. Similarly, the definition “environmental document” has been added to the section as it is defined in NEPA, except that the definition of an environmental document includes a notice of intent and a record of decision (ROD), consistent with the definition of “environmental document” under 23 U.S.C. 139. A combined final environmental impact statement (EIS)/ROD document is not included in the definition but is treated as an environmental document since both the final EIS and the ROD are environmental documents. The definitions “finding of no significant impact (FONSI),” “major federal action,” and “special expertise” have also been added, consistent with definitions provided in NEPA. The definition for “major project,” as provided at 23 U.S.C. 139(a)(7), has been incorporated to distinguish between requirements in NEPA and 23 U.S.C. 139 throughout 23 CFR part 771.

This section also revises several existing definitions for consistency with the statutory definitions and requirements provided in NEPA and 23 U.S.C. 139. The definition for “applicant” has been revised to clarify that applicants may also be the “project sponsor” as the term is defined in the section. 23 U.S.C. 139(a)(10) defines “project sponsor” to mean “the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.” This revision harmonizes the definition of “project sponsor” in 23 U.S.C. 139 with the definition for “applicant” as defined in the section. The definition of “environmental studies” has been revised to clarify that investigations of environmental impacts relevant to the environmental review process assess the “reasonably foreseeable” impacts associated with the proposed actions. The definition for “lead agencies” has been revised for consistency with the statutory definition provided at 23 U.S.C. 139(a)(6) and in NEPA.

Revisions to this section also remove reference to 23 U.S.C. 325 in the definition for “Administration,” as the statute was repealed, as well as references to the CEQ regulations, and incorporate terminology and references to relevant statutory provisions in NEPA as appropriate.

§ 771.109 Applicability and Responsibilities

Consistent with the NEPA Amendments, this section clarifies that the requirements of 23 CFR part 771 apply only to major Federal actions. The section then identifies actions that are excluded from NEPA review because they are not major Federal actions. The actions identified in this section are those which FHWA, FRA, and FTA most commonly undertake, but are not the only actions that the agencies undertake that are not major Federal actions. This section is not intended to be exhaustive, and FHWA, FRA, and FTA are seeking comments on other actions that may not be major Federal actions.

Sections 771.109(a)(3) and (a)(4), as renumbered, have been revised to insert dates establishing the effective dates for the changes introduced by this IFR with respect to when a final agency action occurs or when an environmental document is accepted or initiated. The paragraph previously numbered (a)(4) has been removed as it is no longer relevant.

Revisions to language in §§ 771.109(c)(1) and (c)(2) are meant to clarify that it is ultimately the Federal lead agency that is responsible for managing the environmental review process and the contents of environmental documents, and any joint lead agency may prepare environmental review documents under the Federal lead agency’s supervision and subject to the Federal lead agency’s independent evaluation of such documents. Section 771.109(c)(1) has also been revised to replace “preparation” with “contents” for consistent terminology with NEPA.

Section 771.109(c)(6) has been removed to be consistent with the amendments to NEPA that allow all project sponsors, regardless of whether the project sponsor is a private entity, to prepare environmental documents under the supervision of the lead agency.

Revisions to § 771.109(c)(6), formerly subparagraph (c)(7), clarify the role of participating agencies in the environmental review process, as identified in 23 U.S.C. 139 and NEPA.

For FRA, § 771.109(e) is revised for consistency with the NEPA Amendments providing for an agency to

develop procedures for private entities to allow a project sponsor to prepare environmental documents.

Revisions to this section also include the removal of references to the CEQ regulations and the insertion of terminology and statutory references from NEPA as appropriate.

§ 771.111 Early Coordination, Public Involvement, and Project Development

Section 771.111(a)(2)(iii) was added to incorporate the passenger rail planning process FRA undertakes as part of the Corridor Identification and Development Program authorized under the IJIA and codified at 49 U.S.C. 25101, or other Administration-approved planning efforts. Revisions to paragraph (g) clarify that tiering is a form of programmatic environmental document.

Section 771.111(i)(2) is revised to clarify the factors relevant to soliciting comments in a notice of intent, including “impacts and relevant information, studies, or analyses with respect to the proposed agency action,” see 42 U.S.C. 4336a(c).

Revisions to this section also include the removal of references to the CEQ regulations and the insertion of terminology and statutory references from NEPA as appropriate. Section 771.111(j) has also been revised to include updated contact information for FRA and FTA.

§ 771.113 Timing of Administration Activities When NEPA Applies

This section includes a minor revision to the title of the section to emphasize that the requirements that follow are only applicable if NEPA applies.

Paragraph (c) is revised to clarify that FRA may issue letters of intent prior to completion of the NEPA process for projects receiving funding under the Federal-State Partnership for Intercity Passenger Rail grant program pursuant to 49 U.S.C. 24911(g), which stipulates that the contingent commitment is not an obligation of the Federal government and is subject to the availability of appropriations for the grant program.

§ 771.115 Classes of Actions

This section is revised to incorporate updated terminology and language from the NEPA Amendments and removes language that previously reflected consistency with the CEQ regulations. The introductory paragraph is revised by clarifying that in making a class of action determination, the Administration may make use of any reliable data source, but is not required to undertake new scientific or technical research unless such research is essential to a reasoned choice among

alternatives, and the overall costs and time frame of obtaining it are not unreasonable. This revision reflects consistency with the language in Section 106(b)(3) of NEPA.

Sections 771.115(a)-(c) are revised to remove “Class I,” “Class II,” and “Class III” as used in the parentheses attached to each listed class of action. This terminology was derived from the CEQ regulations and is no longer applicable.

Revisions to this section also include the removal of references to the CEQ regulations and the insertion of terminology from NEPA as appropriate.

§ 771.116 FRA Categorical Exclusions

Revisions to this section include the removal of terminology particular to the CEQ regulations, as well as the removal of references to the CEQ regulations. Terminology from NEPA has been inserted as appropriate.

§ 771.117 FHWA Categorical Exclusions

Revisions to this section include the removal of terminology particular to the CEQ regulations, as well as the removal of references to the CEQ regulations. Terminology from NEPA has been inserted as appropriate.

§ 771.118 FTA Categorical Exclusions

Revisions to this section include the removal of terminology particular to the CEQ regulations, as well as the removal of references to the CEQ regulations. Terminology from NEPA has been inserted as appropriate.

§ 771.119 Environmental Assessments

Sections 771.119(a)(2) and (a)(3) have been revised to reflect that the conflict of interest requirements previously stated in the section were derived from the CEQ regulations. The revisions remove the relevant conflict of interest requirements for FTA and FRA. Section 771.119(a)(2) is further modified to emphasize FTA’s best practice of seeking to reduce the size of documents related to a contractor’s scope of work for an EA.

Revisions to this section include the removal of terminology particular to the CEQ regulations, as well as the removal of references to the CEQ regulations. Terminology from NEPA has been inserted as appropriate.

§ 771.121 Findings of No Significant Impact

This section includes minor revisions in § 771.121(a), clarifying that the Administration is responsible for issuing a written FONSI. The provision for relying upon another agency’s EA/

FONSI in § 771.121(c) is removed and consolidated into new § 771.141(a).

§ 771.123 Draft Environmental Impact Statements

This section includes minor technical revisions. Section 771.123(b)(1) is revised to clarify that the scoping process may begin prior to the publication of a notice of intent. Section 771.123(b)(2) is revised to make clear that the requirement that lead agencies must establish a coordination plan, including a schedule, within 90 days of the publication of the notice of intent is only applicable to projects subject to 23 U.S.C. 139. Section 771.123(c) is revised to clarify that a draft EIS may be prepared by the project sponsor in accordance with 23 U.S.C. 139. Section 771.123(d) is revised to remove reference to conflict of interest requirements previously derived from the CEQ regulations.

This section includes revisions to incorporate the passenger rail planning process FRA undertakes as part of the Corridor Identification and Development Program authorized under the IJIA and codified at 49 U.S.C. 25101.

Revisions to this section also include the removal of terminology particular to the CEQ regulations, as well as the removal of references to the CEQ regulations. Terminology from NEPA has been inserted as appropriate.

§ 771.124 Final Environmental Impact Statement/Record of Decision Document

Revisions to this section include the removal of terminology particular to the CEQ regulations, as well as the removal of references to the CEQ regulations. Terminology from NEPA has been inserted as appropriate.

§ 771.125 Final Environmental Impact Statements

Revisions to this section include the removal of terminology particular to the CEQ regulations, as well as the removal of references to the CEQ regulations.

§ 771.127 Record of Decision

This section includes one revision removing a reference to the CEQ regulations.

§ 771.129 Re-Evaluations

This section is revised to add § 771.129(d) which clarifies that for tiered EAs and EISs, the Administration must re-evaluate the analysis in the first tier if the second tier occurs 5 or more years after the first tier document, to ensure reliance on the analysis remains valid. This addition is consistent with relevant requirements in Section 108 of NEPA.

§ 771.130 Supplemental Environmental Impact Statements

This section is revised to insert terminology from NEPA as appropriate.

§ 771.131 Emergency Action Procedures

This section includes a revision removing reference to the CEQ regulations.

§ 771.137 International Actions

This section is revised at § 771.137(a) to clarify that the subsequent requirements are only applicable in instances where the Administration determines that a major Federal action is proposed.

§ 771.138 Timelines, Page Limits, and Certifications

This section is added to 23 CFR part 771 for clarity and to harmonize requirements in NEPA and 23 U.S.C. 139. Section 771.138(a)(1) outlines the timeline for completing an EIS or combined final EIS/ROD in accordance with NEPA, but also distinguishes where a project is a major project subject to 23 U.S.C. 139. Similarly, § 771.138(a)(2) outlines the timelines for completing an EA in accordance with NEPA and distinguishes where a project is a major project subject to 23 U.S.C. 139. Section 771.138(a)(3) is added to reflect language permitting the lead agency to extend the deadline for EAs and EISs in Section 107 of NEPA.

Section 771.138(b)(1) outlines the page limit requirements for an EIS in accordance with NEPA, but also distinguishes where a project is a major project subject to 23 U.S.C. 139. Section 771.138(b)(2) provides the page limit requirements for EAs in accordance with NEPA and provides a different page limit requirement where the project is a major project subject to 23 U.S.C. 139.

Section 771.138(c) is added to reflect guidance from CEQ for the lead agency(ies) to certify that an EA, draft EIS, final EIS, or combined final EIS/ROD complies with the requirements of 23 CFR part 771 and applicable statutes. This section supports implementation of statutory requirements on timelines and page limits provided in NEPA.

§ 771.141 Reliance and Adoption Efficiencies

This section is added to 23 CFR part 771 for consistency with NEPA and 23 U.S.C. 139. Section 771.141(a)(1) is inserted to reflect language at 23 U.S.C. 139(c)(5). Section 771.141(a)(2) is inserted to address situations where an environmental document is not prepared in accordance with 23 U.S.C.

139, but the Administration determines that the proposed action is substantially the same as the action covered in the existing environmental document.

Section 771.141(a)(3) is added to clarify that the Administration may rely upon an existing CE determination made by another Federal agency if the Administration determines the proposed major Federal action is substantially the same as the action that another Federal agency determined is a CE. Section 771.141(a)(4) is added to reflect consistency with 23 U.S.C. 203(e)(4). Section 771.141(b) is added for consistency with the procedures for the adoption of another Federal agency's CEs as outlined in Section 109 of NEPA and 23 U.S.C. 139(q).

III. Basis For Issuing an Interim Final Rule

A. Good Cause Exists for Proceeding With an Interim Final Rule

For the reasons described in this section, FHWA, FRA, and FTA have determined that an interim final rule is the appropriate mechanism to update Part 771 to align with current law. This interim final rule satisfies the requirements of the Administrative Procedure Act (APA) under 5 U.S.C. 553(b)–(d). Although this interim final rule is effective immediately, comments are solicited from interested members of the public on all aspects of the interim final rule. The agencies will consider these comments in deciding the next steps following this interim final rule.

Under the Administrative Procedure Act, the requirement for prior notice and opportunity for public comment does not apply when the agency, for good cause, finds that those procedures are “impracticable, unnecessary, or contrary to the public interest,” 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause, 5 U.S.C. 553(d)(3). FHWA, FRA, and FTA find that, to the extent that prior notice and solicitation of public comment would otherwise be required, the technical nature of these changes and the need to expeditiously replace the agencies' existing rules satisfies the “good cause” exception in 5 U.S.C. 553(b)(B). The agencies find that notice and opportunity for public comment are unnecessary for this rulemaking because the CEQ regulations upon which DOT's regulations were based were rescinded. Therefore, the agencies have no discretion but to make technical changes to reflect the removal of regulations previously issued by CEQ, the amendments to NEPA included in the section of FR Act of 2023 known as the BUILDER Act of 2023, and the

amendments included in the Infrastructure Investment and Jobs Act of 2021.

Moreover, as discussed above, DOT's prior rules were promulgated as a supplement to the CEQ's NEPA regulations. 23 CFR 771.101. As such, the current version of Part 771 is supplementing a NEPA regulation that no longer exists. The agencies have continued to rely upon Part 771 to implement NEPA and 23 U.S.C. 139. This is not, however, tenable in the long term, and revisions to Part 771 are critical to provide clarity and certainty to the regulated public. Because of the need for speed and certainty, notice-and-comment, to the extent it was required at all, is unnecessary, impracticable, and contrary to the public interest.

For the same reasons stated in the present section, above, DOT finds that “good cause” exists under 5 U.S.C. 553(d)(3) to waive the 30-day delay of the effective date that would otherwise be required. This IFR will accordingly be effective immediately.

B. Notice-and-Comment Rulemaking Is Not Required for Rules of Agency Procedure

The agencies are revising their prior procedures and practices for implementing NEPA, a “purely procedural statute” which “‘simply prescribes the necessary process’ for an agency's environmental review of a project—a review that is, even in its most rigorous form, ‘only one input into an agency's decision and does not itself require any particular substantive outcome.’” *Seven County*, 145 S. Ct. at 1507, 1511. “NEPA imposes no *substantive* constraints on the agency's ultimate decision to build, fund, or approve a proposed project,” and “is relevant only to the question of whether an agency's final decision—*i.e.*, that decision to authorize, fund, or otherwise carry out a particular proposed project or activity—“was reasonably explained.” *Id.* at 1511. As such, notice-and-comment procedures are not required because this revision falls within the Administrative Procedure Act (APA) exception for “rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A). These are procedural provisions, not ones that impose substantive environmental obligations or restrictions.

Moreover, even if (and to the extent that) the agencies' regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy under 5 U.S.C. 553(b)(A). An interpretative rule provides an interpretation of a statute,

rather than make discretionary policy choices that establish enforceable rights or obligations for regulated parties under delegated congressional authority. General statements of policy provide notice of an agency's intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. Both of these types of agency action are expressly exempted from notice and comment by statute, 5 U.S.C. 553(b)(A).

Accordingly, although FHWA, FRA, and FTA are providing notice and an opportunity to comment on this interim final rule, these agencies have determined that notice and comment procedures are not required. The fact that FHWA, FRA, and FTA previously undertook notice and comment rulemaking in promulgating these regulations is immaterial. As the Supreme Court has held, where notice and comment procedures are not required, prior use of them in promulgating a rule does not bind the agency to use such procedures in making future changes. *See Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 101 (2015).

C. In an Abundance of Caution and for Reasons of Good Government, the Agencies Solicit Comment

As explained above, FHWA, FRA, and FTA believe comment is not required because good cause exists to forego it. Nevertheless, the agencies have elected to solicit comment, in an abundance of caution and for reasons of good government.

The agencies encourage persons to participate in this rulemaking by submitting comments containing relevant information, data, or views. The agencies will consider comments received on or before the closing date for comments. The agencies will consider late-filed comments to the extent practicable. This IFR may be amended based on comments received.

IV. Regulatory Analysis and Notices

Legal Authority for This Rulemaking

This IFR is published under the authority of the Secretary of Transportation delegated to the agencies pursuant to 49 CFR 1.81, 1.85, 1.89, and 1.91. Authority for these regulations is as follows: 42 U.S.C. 4321 *et seq.*; 23 U.S.C. 106, 109, 128, 138, 139, 203, 315, 326, and 327; 49 U.S.C. 303 and 24201; 49 U.S.C. 5323(c) and 5323(q); 49 CFR 1.81, 1.85, 1.89, and 1.91; Public Law 109–59, 119 Stat. 1144, Sections 6002 and 6010; Public Law 112–141, 126 Stat.

405, Sections 1315, 1316, 1317, 1318, and 1319; and Public Law 114–94, 129 Stat. 1312, Sections 1304 and 1432.

Executive Order 12866, Executive Order 14192, and DOT Regulatory Policies and Procedures

This rule is a “significant regulatory action” under E.O. 12866, *Regulatory Planning and Review* (58 FR 51735 (Oct. 4, 1993)). Therefore, the Office of Management and Budget (OMB) has reviewed this rule under that E.O. Executive Order 12866 further directs agencies to assess all costs and benefits of available regulatory alternatives and, if a regulation is necessary, to select regulatory approaches that maximize net benefits. This final rule is considered an E.O. 14192 deregulatory action. The Agencies expect minor cost savings that cannot be quantified. The Agencies do not have specific data to assess the economic impact of this final rule because such data does not exist and would be difficult to develop. Commenters are requested to submit any information pertaining to potential economic impacts.

This final rule modifies 23 CFR part 771. The Agencies anticipate that the changes in this final rule would enable projects to move more expeditiously through the Federal environmental review process. It would reduce the preparation of extraneous environmental documentation and analysis not needed for compliance with NEPA while still ensuring that projects are built in an environmentally responsible manner and consistent with Federal law.

Regulatory Flexibility Act and Executive Order 13272, Proper Consideration of Small Entities in Agency Rulemaking

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.*, requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment. As discussed previously, FHWA, FRA, and FTA have determined that prior notice and opportunity for public comment is unnecessary under the APA. Because a notice of proposed rulemaking is not required for this action pursuant to 5 U.S.C. 553, or any other law, no regulatory flexibility analysis has been prepared for this IFR. See 5 U.S.C. 601(2), 603(a).

Environmental Analysis

NEPA does not require any Federal agency to conduct NEPA analysis for the development of agency procedures for the implementation of NEPA. The promulgation of this IFR is also

categorically excluded from the requirement to prepare an impact statement by 23 CFR 771.117(c)(20) and therefore FHWA, in coordination with FRA and FTA, has determined that no environmental analysis is needed.

Executive Order 13132, Federalism

FHWA, in coordination with FRA and FTA, analyzed this IFR in accordance with the principles and criteria contained in E.O. 13132, *Federalism*, which requires agencies to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. The agencies have determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

FHWA, in coordination with FRA and FTA, analyzed this IFR according to the principles and criteria in E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*, and DOT Order 5301.1, *Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes*. FHWA, in coordination with FRA and FTA, has determined that this action will not significantly nor uniquely affect Tribal communities or Indian Tribal governments. In addition, this action does not impose compliance costs on Tribal governments and does not preempt Tribal law.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (2 U.S.C. 1531) requires agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector. For any NPRM or final rule that includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments in the aggregate of \$100 million or more (in 1996 dollars) in any given year, the agency must prepare, amongst other things, a written statement that qualitatively and quantitatively assesses the costs and benefits of the Federal mandate. This action applies to Federal agencies and would not result in expenditures of \$100 million or more for State, Tribal, and local governments, in the aggregate, or the private sector in any 1 year. This action also does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments

subject to the requirements of 2 U.S.C. 1531–1538.

Paperwork Reduction Act (PRA)

Under the PRA (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information they conduct, sponsor, or require through regulations. This action does not impose any new information collection burden that would require additional review or approval by OMB for the purposes of the PRA.

Executive Order 13211 (Energy Effects)

The agencies have analyzed this action under E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*. The agencies have determined that this is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Regulation Identification Number

A regulation identification 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

23 CFR Part 771

Environmental impact statements; Grant programs-transportation; Highways and roads; Historical preservation; Public lands; Railroads; Recreation and recreation areas; Reporting and recordkeeping requirements.

49 CFR Part 264

Environmental impact statements; Railroads.

49 CFR Part 622

Environmental impact statements; Mass transportation.

Issued in Washington, DC, on June 26, 2025, under the authority delegated in 49 CFR 1.81, 1.85, 1.89, and 1.91.

Gloria M. Shepherd,

Executive Director, Federal Highway Administration.

Robert Andrew Feeley,

Acting Administrator, Federal Railroad Administration.

Tariq Bokhari,

Acting Administrator, Federal Transit Administration.

In consideration of the foregoing, the Agencies revise Title 23, Code of Federal Regulations, part 771, and Title 49, Code of Federal Regulations, parts 264 and 622 to read as follows:

Title 23—Highways

- 1. Revise part 771 to read as follows:

PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Sec.

- 771.101 Purpose.
- 771.103 [Reserved]
- 771.105 Policy.
- 771.107 Definitions.
- 771.109 Applicability and responsibilities.
- 771.111 Early coordination, public involvement, and project development.
- 771.113 Timing of Administration activities when NEPA applies.
- 771.115 Classes of actions.
- 771.116 FRA categorical exclusions.
- 771.117 FHWA categorical exclusions.
- 771.118 FTA categorical exclusions.
- 771.119 Environmental assessments.
- 771.121 Findings of no significant impact.
- 771.123 Draft environmental impact statements.
- 771.124 Final environmental impact statement/record of decision document.
- 771.125 Final environmental impact statements.
- 771.127 Record of decision.
- 771.129 Re-evaluations.
- 771.130 Supplemental environmental impact statements.
- 771.131 Emergency action procedures.
- 771.133 Compliance with other requirements.
- 771.137 International actions.
- 771.138 Timelines, Page Limits, and Certifications.
- 771.139 Limitations on actions.
- 771.141 Reliance and Adoption Efficiencies.

Authority: 42 U.S.C. 4321 *et seq.*; 23 U.S.C. 106, 109, 128, 138, 139, 203(e), 315, 326, and 327; 49 U.S.C. 303 and 24201; 49 U.S.C. 5323(c) and 5323(q); 49 CFR 1.81, 1.85, 1.89, and 1.91; Pub. L. 109–59, 119 Stat. 1144, Sections 6002 and 6010; Pub. L. 112–141, 126 Stat. 405, Sections 1315, 1316, 1317, 1318, and 1319; and Pub. L. 114–94, 129 Stat. 1312, Sections 1304 and 1432.

§ 771.101 Purpose.

This part prescribes the policies and procedures of the Federal Highway

Administration (FHWA), the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA) for implementing the National Environmental Policy Act of 1969 as amended (NEPA). Together these regulations set forth all FHWA, FRA, FTA, and U.S. Department of Transportation (DOT) requirements under NEPA for the processing of highway, public transportation, and railroad actions. This part also sets forth procedures to comply with 23 U.S.C. 109(h), 128, 138, 139, 203(e), 326, and 327; 49 U.S.C. 303, 24201, 5323(c) and 5323(q); Public Law 112–141, 126 Stat. 405, section 1301 as applicable; and Public Law 114–94, 129 Stat. 1312, section 1304.

§ 771.103 [Reserved]

§ 771.105 Policy.

It is the policy of the Administration that:

(a) To the maximum extent practicable and consistent with Federal law, all environmental investigations, reviews, and consultations be coordinated as a single process, and compliance with all applicable environmental requirements be reflected in a single environmental document required by this part.

(b) Programmatic approaches be developed for compliance with environmental requirements (including the requirements found at 23 U.S.C. 139(b)(3)), coordination among agencies and/or the public, or to otherwise enhance and accelerate project development.

(c) Alternative courses of action be evaluated and decisions be made in the best overall public interest based upon a balanced consideration of the need for safe and efficient transportation; of the reasonably foreseeable social, economic, and environmental impacts of the proposed transportation improvement; and of national, State, and local environmental protection goals.

(d) Public involvement and a systematic interdisciplinary approach be essential parts of the development process for proposed actions.

(e) Measures necessary to mitigate adverse impacts be incorporated into the action. Measures necessary to mitigate adverse impacts are eligible for Federal funding when the Administration determines that:

(1) The impacts for which the mitigation is proposed actually result from the Administration action; and

(2) The proposed mitigation represents a reasonable public expenditure after considering the impacts of the action and the benefits of

the proposed mitigation measures. In making this determination, the Administration will consider, among other factors, the extent to which the proposed measures would assist in complying with a Federal statute other than NEPA, executive order, or Administration regulation or policy.

(f) Costs incurred by the applicant for the preparation of environmental documents requested by the Administration be eligible for Federal assistance.

(g) No person, because of handicap, age, race, color, sex, or national origin, be excluded from participating in, or denied benefits of, or be subject to discrimination under any Administration program or procedural activity required by or developed pursuant to this part.

§ 771.107 Definitions.

The definitions contained in 42 U.S.C. 4336e and in titles 23 and 49 of the United States Code are applicable. In addition, the following definitions apply to this part.

Action. A highway, transit, or railroad project proposed for U.S. DOT funding. It also can include activities such as joint and multiple use permits, changes in access control, or rulemakings, which may or may not involve a commitment of Federal funds.

Administration. FHWA, FRA, or FTA, whichever is the designated Federal lead agency for the proposed action. A reference herein to the Administration means FHWA, FRA, or FTA, or a State when the State is functioning as FHWA, FRA, or FTA in carrying out responsibilities delegated or assigned to the State in accordance with 23 U.S.C. 326 or 327, or other applicable law. A reference herein to FHWA, FRA, or FTA means the State when the State is functioning as FHWA, FRA, or FTA respectively in carrying out responsibilities delegated or assigned to the State in accordance with 23 U.S.C. 326 or 327, or other applicable law. Nothing in this definition alters the scope of any delegation or assignment made by FHWA, FRA, or FTA.

Administration action. FHWA, FRA, or FTA approval of the applicant's request for Federal funds for construction. It also can include approval of activities, such as joint and multiple use permits, changes in access control, rulemakings, etc., that may or may not involve a commitment of Federal funds.

Applicant. Any Federal, State, local, or federally recognized Indian Tribal governmental unit that requests funding approval or other action by the Administration and that the

Administration works with to conduct environmental studies and prepare environmental review documents.

When another Federal agency, or the Administration itself, is implementing the action, then the lead agencies (as defined in this section) may assume the responsibilities of the applicant in this part. If there is no applicant, then the Federal lead agency will assume the responsibilities of the applicant in this part. The applicant may also be the project sponsor.

Cooperating agency. Any Federal, State, Tribal, or local agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal and has been designated as a cooperating agency by the lead agency.

Environmental document. An environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision.

Environmental studies. The investigations of potential reasonably foreseeable environmental impacts to determine the environmental process to be followed and to assist in the preparation of the environmental document.

Finding of no significant impact (FONSI). Means a final determination by the Administration that the proposed action does not require the issuance of an environmental impact statement.

Lead agency(ies). The Administration and, if applicable, any other agency designated to serve as a joint lead agency with the Administration under 23 U.S.C. 139(c)(3) or 42 U.S.C. 4336a(1)(B).

Major Federal action. An action that the Administration determines is subject to substantial Federal control and responsibility.

Major project. A project subject to the requirements of 23 U.S.C. 139 that:

(1) Requires multiple (two, or more) authorizations, reviews, or studies under a Federal law other than NEPA;

(2) For which the lead agency has determined an EIS is required (or for which the lead agency has determined an EA is required and where the project sponsor requests that the project be treated as a major project); and

(3) For which the project sponsor has identified the reasonable availability of funds sufficient to complete the project.

Participating agency. A Federal, State, local, or federally recognized Indian Tribal governmental unit with an interest in the proposed project and has accepted an invitation to be a participating agency or, in the case of a Federal agency, has not declined the

invitation in accordance with 23 U.S.C. 139(d)(3).

Programmatic approaches. An approach that reduces the need for project-by-project reviews, eliminates repetitive discussion of the same issue, or focuses on the actual issues ripe for analyses at each level of review, consistent with NEPA and other applicable law.

Project sponsor. The Federal, State, local, or federally recognized Indian Tribal governmental unit, or other entity, including any private or public-private entity that seeks Federal funding or an Administration action for a project. Where it is not the applicant, the project sponsor may conduct some of the activities on the applicant's behalf.

Section 4(f). Refers to 49 U.S.C. 303 and 23 U.S.C. 138 (as implemented by 23 CFR part 774).

Special expertise. Statutory responsibility, agency mission, or related program experience.

§ 771.109 Applicability and responsibilities.

(a)(1) The provisions of this part only apply to major Federal actions. Steps taken by the applicant that do not require Federal approvals, such as preparation of a regional transportation plan, are not subject to this part.

(2) The Administration has determined the following additional actions are not major Federal actions subject to NEPA:

(i) Extraterritorial activities or decisions, which means agency activities or decisions with effects located entirely outside the jurisdiction of the United States.

(ii) [Reserved].

(3) This part does not apply to or alter final agency action the Administration made prior to July 3, 2025.

(4) Environmental documents accepted or prepared after July 3, 2025 must be developed in accordance with this part.

(b)(1) The project sponsor, in cooperation with the Administration, is responsible for implementing those mitigation measures stated as commitments in the environmental documents prepared pursuant to this part unless the Administration approves of their deletion or modification in writing. FHWA will ensure that this is accomplished as a part of its stewardship and oversight responsibilities. FRA and FTA will ensure implementation of committed mitigation measures through incorporation by reference in the grant agreement, followed by reviews of designs and construction inspections.

(2) When entering into Federal-aid project agreements pursuant to 23 U.S.C. 106, FHWA must ensure the State highway agency constructs the project in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental review documents.

(c) The following roles and responsibilities apply during the environmental review process:

(1) The Federal lead agencies are responsible for managing the environmental review process and the contents of the appropriate environmental documents.

(2) Any State or local governmental entity applicant that is or is expected to be a direct recipient of funds under title 23, U.S. Code or chapter 53 of title 49, U.S. Code for the action, or is or is expected to be a direct recipient of financial assistance for which FRA is responsible (e.g., Subtitle V of Title 49, U.S. Code) must serve as a joint lead agency with the Administration in accordance with 23 U.S.C. 139, and may prepare environmental review documents if the Administration furnishes guidance, and independently evaluates the environmental documents.

(3) The Administration may invite other Federal, State, local, or federally recognized Indian Tribal governmental units to serve as joint lead agencies in accordance with 42 U.S.C. 4336(a)(1)(B). If the applicant is serving as a joint lead agency under 23 U.S.C. 139(c)(3), then the Administration and the applicant will decide jointly which other agencies to invite to serve as joint lead agencies.

(4) When the applicant seeks an Administration action other than the approval of funds, the Administration will determine the role of the applicant in accordance with this part and 23 U.S.C. 139.

(5) Regardless of its role under paragraphs (c)(2) through (c)(4) of this section, a public agency that has statewide jurisdiction (for example, a State highway agency or a State department of transportation) or a local unit of government acting through a statewide agency, that meets the requirements of 42 U.S.C. 4332(G), may prepare the environmental documents with the Administration furnishing guidance, participating in the preparation, and independently evaluating the document. All FHWA applicants qualify under this paragraph.

(6) A participating agency must provide input during the times specified in the coordination plan under 23 U.S.C. 139(g) and within the agency's special expertise or jurisdiction. Participating agencies provide

comments and concurrence on the schedule within the coordination plan. For projects not subject to 23 U.S.C. 139, participating agencies will participate in the environmental review process consistent with 42 U.S.C. 4336a, as appropriate.

(d) When entering into Federal-aid project agreements pursuant to 23 U.S.C. 106, the State highway agency must ensure the project is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless the State requests and receives written FHWA approval to modify or delete such mitigation features.

(e) When FRA is the lead agency, the project sponsor is a private entity, and there is no applicant acting as a joint-lead agency, FRA may provide written authorization to the project sponsor to prepare the environmental document under FRA supervision. FRA's written authorization will establish the project sponsor's and FRA's respective responsibilities in preparing the environmental document.

§ 771.111 Early coordination, public involvement, and project development.

(a)(1) Early coordination with appropriate agencies and the public aids in determining the type of environmental documents an action requires, the scope of the document, the level of analysis, and related environmental requirements. These activities contribute to reducing or eliminating delay, duplicative processes, and conflict, including by incorporating planning outcomes that have been reviewed by agencies and Indian Tribal partners in project development.

(2)(i) The information and results produced by or in support of the transportation planning process may be incorporated into environmental review documents in accordance with 23 CFR part 450, 23 CFR part 450 Appendix A, or 23 U.S.C. 139(f), 168, or 169, as applicable.

(ii) The planning process described in paragraph (a)(2)(i) of this section may include mitigation actions consistent with a programmatic mitigation plan developed pursuant to 23 U.S.C. 169 or from a programmatic mitigation plan developed outside of that framework.

(iii) The purpose and need, alternatives development and screening, and other relevant analyses, studies, and work products developed pursuant to 49 U.S.C. 25101 or other Administration-approved planning efforts, may be incorporated into the NEPA process as appropriate.

(3) Applicants intending to apply for funds or request Administration action should notify the Administration at the time a project concept is identified. When requested, the Administration will advise the applicant, insofar as possible, of the probable class of action (see § 771.115) and related environmental laws and requirements and of the need for specific studies and findings that would normally be developed during the environmental review process. A lead agency, in consultation with participating agencies, must develop an environmental checklist, as appropriate, to assist in resource and agency identification.

(b)(1) The Administration will identify the probable class of action as soon as sufficient information is available to identify the reasonably foreseeable impacts of the action.

(2) For projects to be evaluated with an EIS, the Administration must respond in writing to a project sponsor's formal project notification within 45 days of receipt.

(c) When the FHWA, FRA, or FTA are jointly involved in the development of an action, or when the FHWA, FRA, or FTA act as a joint lead agency with another Federal agency, a mutually acceptable process will be established on a case-by-case basis. A project sponsor may request the Secretary to designate the lead Federal agency when project elements fall within the expertise of multiple U.S. DOT agencies.

(d) During early coordination, the lead agencies may invite other agencies with an interest in the action to participate. The lead agencies must, however, invite such agencies if the action is subject to the project development procedures in 23 U.S.C. 139 within 45 days from publication of the notice of intent. Any such agencies with special expertise concerning the action may also be invited to become cooperating agencies. Any such agencies with jurisdiction by law concerning the action must be invited to become cooperating agencies.

(e) Other States and Federal land management entities that may be significantly affected by the action or by any of the alternatives must be notified early and their views solicited by the applicant in cooperation with the Administration. The Administration will provide direction to the applicant on how to approach any significant unresolved issues as early as possible during the environmental review process.

(f) Any action evaluated under NEPA as a categorical exclusion (CE), environmental assessment (EA), or

environmental impact statement (EIS) must:

(1) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;

(2) Have independent utility or independent significance, *i.e.*, be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and

(3) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

(g) For major transportation actions, the tiering (a form of programmatic environmental documentation) of EISs or EAs may be appropriate. The first tier EIS or EA would focus on broad issues such as general location, mode choice, and areawide air quality and land use implications of the major alternatives. The second tier would address site-specific details on a project's reasonably foreseeable impacts, costs, and mitigation measures.

(h) For the Federal-aid highway program:

(1) Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program pursuant to 23 U.S.C. 128 and 139.

(2) State public involvement/public hearing procedures must provide for:

(i) Coordination of public involvement activities and public hearings with the entire NEPA process;

(ii) Early and continuing opportunities during project development for the public to be involved in the identification of reasonably foreseeable social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions;

(iii) One or more public hearings or the opportunity for hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid project that requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines a public hearing is in the public interest;

(iv) Reasonable notice to the public of either a public hearing or the opportunity for a public hearing. Such notice will indicate the availability of explanatory information. The notice must also provide information required to comply with public involvement

requirements of other laws, executive orders, and regulations;

(v) Explanation at the public hearing of the following information, as appropriate:

(A) The project's purpose, need, and consistency with the goals and objectives of any local urban planning,

(B) The project's alternatives and major design features,

(C) The reasonably foreseeable social, economic, environmental, and other impacts of the project,

(D) The relocation assistance program and the right-of-way acquisition process, and

(E) The State highway agency's procedures for receiving both oral and written statements from the public;

(vi) Submission to the FHWA of a transcript of each public hearing and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing or during an announced period after the public hearing;

(vii) An opportunity for public involvement in defining the purpose and need and the reasonable range of alternatives, for any action subject to the project development procedures in 23 U.S.C. 139; and

(viii) Public notice and an opportunity for public review and comment on a Section 4(f) *de minimis* impact finding, in accordance with 23 CFR 774.5(b)(2)(i).

(i) Applicants for FRA programs or the FTA capital assistance program:

(1) Achieve public participation on proposed actions through activities that engage the public, including public hearings, town meetings, and charrettes, and seek input from the public through scoping for the environmental review process. Project milestones may be announced to the public using electronic or paper media (*e.g.*, newsletters, note cards, or emails). For actions requiring EISs, an early opportunity for public involvement in defining the purpose and need for the action and the range of alternatives must be provided, and a public hearing will be held during the circulation period of the draft EIS.

(2) May participate in early scoping as long as enough project information is known so the public and other agencies can participate effectively. Early scoping constitutes initiation of NEPA scoping while local planning efforts to aid in establishing the purpose and need and in evaluating alternatives and impacts are underway. Notice of early scoping must be made to the public and other agencies. If early scoping is the start of

the NEPA process, the early scoping notice must include language to that effect. After development of the proposed action at the conclusion of early scoping, FRA or FTA will publish the notice of intent if it is determined at that time the proposed action requires an EIS. The notice of intent will establish a 30-day period for comments on the purpose and need, alternatives, impacts, and relevant information, studies, or analyses with respect to the proposed agency action.

(3) Are encouraged to post and distribute materials related to the environmental review process, including, environmental documents (*e.g.*, EAs and EISs), environmental studies (*e.g.*, technical reports), public meeting announcements, and meeting minutes, through publicly-accessible electronic means, including project websites. Applicants should keep these materials available to the public electronically until the project is constructed and open for operations.

(4) Should post all FONSI's, combined final EISs/RODs, and RODs on a project website until the project is constructed and open for operation.

(j) Information on the FHWA environmental process may be obtained from: FHWA Director, Office of Project Development and Environmental Review, Federal Highway Administration, Washington, DC 20590, or www.environment.fhwa.dot.gov. Information on the FRA environmental process may be obtained from: FRA Director, Office of Environmental Program Management, Federal Railroad Administration, Washington, DC 20590, or railroads.dot.gov. Information on the FTA environmental process may be obtained from: FTA Director, Office of Environmental Policy and Programs, Federal Transit Administration, Washington, DC 20590 or www.transit.dot.gov.

§ 771.113 Timing of Administration activities when NEPA applies.

(a) The lead agencies, in cooperation with the applicant and project sponsor, as appropriate, will perform the work necessary to complete the environmental review process. This work includes drafting environmental documents and completing environmental studies, related engineering studies, agency coordination, public involvement, and identification of mitigation measures. Except as otherwise provided in law or in paragraph (d) of this section, final design activities, property acquisition, purchase of construction materials or rolling stock, or project construction

must not proceed until the following have been completed:

(1)(i) The Administration has classified the action as a CE;

(ii) The Administration has issued a FONSI; or

(iii) The Administration has issued a combined final EIS/ROD or a final EIS and ROD;

(2) For actions proposed for FHWA funding, the Administration has received and accepted the certifications and any required public hearing transcripts required by 23 U.S.C. 128;

(3) For activities proposed for FHWA funding, the programming requirements of 23 CFR part 450, subpart B, and 23 CFR part 630, subpart A, have been met.

(b) For FHWA actions, completion of the requirements set forth in paragraphs (a)(1) and (2) of this section is considered acceptance of the general project location and concepts described in the environmental review documents unless otherwise specified by the approving official.

(c) Letters of Intent issued under the authority of 49 U.S.C. 5309(g) are used by FTA to indicate an intention to obligate future funds for multi-year capital transit projects. Letters of Intent will not be issued by FTA until the NEPA process is completed. Letters of Intent issued by FRA under the authority of 49 U.S.C. 24911(g) may be issued prior to completion of the NEPA process.

(d) The prohibition in paragraph (a)(1) of this section is limited by the following exceptions:

(1) Early acquisition, hardship and protective acquisitions of real property in accordance with 23 CFR part 710, subpart E for FHWA. Exceptions for the acquisitions of real property are addressed in paragraphs (c)(6) and (d)(3) of § 771.118 for FTA.

(2) The early acquisition of right-of-way for future transit use in accordance with 49 U.S.C. 5323(q) and FTA guidance.

(3) A limited exception for rolling stock is provided in 49 U.S.C. 5309(l)(6).

(4) FRA may make exceptions on a case-by-case basis for purchases of railroad components or materials that can be used for other projects or resold.

§ 771.115 Classes of actions.

There are three classes of actions that prescribe the level of documentation required in the NEPA process. In selecting the class of action, the Administration may make use of any reliable data source and is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and

the overall costs and time frame of obtaining it are not unreasonable. A programmatic approach may be used for any class of action.

(a) *EIS*. Actions that have a reasonably foreseeable significant effect on the quality of the human environment require an EIS. The following are examples of actions that normally require an EIS:

(1) A new controlled access freeway.

(2) A highway project of four or more lanes on a new location.

(3) Construction or extension of a fixed transit facility (e.g., rapid rail, light rail, commuter rail, bus rapid transit) that will not be located primarily within an existing transportation right-of-way.

(4) New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing transportation right-of-way.

(5) New construction or extension of a separate roadway for buses not located primarily within an existing transportation right-of-way.

(6) New construction of major railroad lines or facilities (e.g., terminal passenger stations, freight transfer yards, or railroad equipment maintenance facilities) that will not be located within an existing transportation right-of-way.

(b) *CE*. Actions that normally do not have a significant environmental effect are excluded from the requirement to prepare an EA or EIS. A specific list of CEs normally not requiring NEPA documentation is set forth in § 771.117(c) for FHWA actions or § 771.118(c) for FTA actions. When appropriately documented, additional projects may also qualify as CEs pursuant to § 771.117(d) for FHWA actions or pursuant to § 771.118(d) for FTA actions. FRA's CEs are listed in § 771.116.

(c) *EA*. Actions that do not have reasonably foreseeably significant effects on the quality of the human environment or for which the significance of the environmental impact is unknown. All actions that are not EISs or CEs are EAs. All actions in this class require the preparation of an EA to determine the appropriate environmental document required.

§ 771.116 FRA categorical exclusions.

(a) CEs are actions that, based on FRA's past experience with similar actions, normally do not involve significant environmental impacts. They are actions that do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact

on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise have any significant environmental impacts.

(b) Any action that normally would be classified as a CE but could involve unusual circumstances will require FRA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

(1) Significant environmental impacts;

(2) Substantial controversy on environmental grounds;

(3) Significant impact on properties protected by Section 4(f) requirements or Section 106 of the National Historic Preservation Act; or

(4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

(c) Actions that FRA determines fall within the following categories of FRA CEs and that meet the criteria for CEs in paragraph (a) of this section may be designated as CEs only after FRA approval. FRA may request the applicant or project sponsor submit documentation to demonstrate that the specific conditions or criteria for these CEs are satisfied and significant environmental effects will not result.

(1) Administrative procurements (e.g., for general supplies) and contracts for personal services, and training.

(2) Personnel actions.

(3) Planning or design activities that do not commit to a particular course of action affecting the environment.

(4) Localized geotechnical and other investigations to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(5) Internal orders, policies, and procedures not required to be published in the **Federal Register** under the Administrative Procedure Act, 5 U.S.C. 552(a)(1).

(6) Rulemakings issued under section 17 of the Noise Control Act of 1972, 42 U.S.C. 4916.

(7) Financial assistance to an applicant where the financial assistance funds an activity already completed, such as refinancing outstanding debt.

(8) Hearings, meetings, or public affairs activities.

(9) Maintenance or repair of existing railroad facilities, where such activities

do not change the existing character of the facility, including equipment; track and bridge structures; electrification, communication, signaling, or security facilities; stations; tunnels; maintenance-of-way and maintenance-of-equipment bases.

(10) Emergency repair or replacement, including reconstruction, restoration, or retrofitting, of an essential rail facility damaged by the occurrence of a natural disaster or catastrophic failure. Such repair or replacement may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the rail facility's original construction.

(11) Operating assistance to a railroad to continue existing service or to increase service to meet demand, where the assistance will not significantly alter the traffic density characteristics of existing rail service.

(12) Minor rail line additions, including construction of side tracks, passing tracks, crossovers, short connections between existing rail lines, and new tracks within existing rail yards or right-of-way, provided such additions are not inconsistent with existing zoning, do not involve acquisition of a significant amount of right-of-way, and do not significantly alter the traffic density characteristics of the existing rail lines or rail facilities.

(13) Acquisition or transfer of real property or existing railroad facilities, including track and bridge structures; electrification, communication, signaling or security facilities; stations; and maintenance of way and maintenance of equipment bases or the right to use such real property and railroad facilities, for the purpose of conducting operations of a nature and at a level of use similar to those presently or previously existing on the subject properties or facilities.

(14) Research, development, or demonstration activities on existing railroad lines or facilities, such as advances in signal communication or train control systems, equipment, or track, provided such activities do not require the acquisition of a significant amount of right-of-way and do not significantly alter the traffic density characteristics of the existing rail line or facility.

(15) Promulgation of rules, the issuance of policy statements, the waiver or modification of existing regulatory requirements, or discretionary approvals that do not result in significantly increased emissions of air or water pollutants or noise.

(16) Alterations to existing facilities, locomotives, stations, and rail cars in order to make them accessible for the elderly and persons with disabilities, such as modifying doorways, adding or modifying lifts, constructing access ramps and railings, modifying restrooms, and constructing accessible platforms.

(17) The rehabilitation, reconstruction or replacement of bridges, the rehabilitation or maintenance of the rail elements of docks or piers for the purposes of intermodal transfers, and the construction of bridges, culverts, or grade separation projects are predominantly within existing right-of-way and that do not involve extensive in-water construction activities, such as projects replacing bridge components including stringers, caps, piles, or decks, the construction of roadway overpasses to replace at-grade crossings, construction or reconstruction of approaches or embankments to bridges, or construction or replacement of short span bridges.

(18) Acquisition (including purchase or lease), rehabilitation, transfer, or maintenance of vehicles or equipment, including locomotives, passenger coaches, freight cars, trainsets, and construction, maintenance or inspection equipment, that does not significantly alter the traffic density characteristics of an existing rail line.

(19) Installation, repair and replacement of equipment and small structures designed to promote transportation safety, security, accessibility, communication or operational efficiency that take place predominantly within the existing right-of-way and do not result in a major change in traffic density on the existing rail line or facility, such as the installation, repair or replacement of surface treatments or pavement markings, small passenger shelters, passenger amenities, benches, signage, sidewalks or trails, equipment enclosures, and fencing, railroad warning devices, train control systems, signalization, electric traction equipment and structures, electronics, photonics, and communications systems and equipment, equipment mounts, towers and structures, information processing equipment, and security equipment, including surveillance and detection cameras.

(20) Environmental restoration, remediation, pollution prevention, and mitigation activities conducted in conformance with applicable laws, regulations and permit requirements, including activities such as noise mitigation, landscaping, natural resource management activities,

replacement or improvement to storm water oil/water separators, installation of pollution containment systems, slope stabilization, and contaminated soil removal or remediation activities.

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

(22) Track and track structure maintenance and improvements when carried out predominantly within the existing right-of-way that do not cause a substantial increase in rail traffic beyond existing or historic levels, such as stabilizing embankments, installing or reinstalling track, re-grading, replacing rail, ties, slabs and ballast, installing, maintaining, or restoring drainage ditches, cleaning ballast, constructing minor curve realignments, improving or replacing interlockings, and the installation or maintenance of ancillary equipment.

(d) Any action qualifying as a CE under § 771.117 or § 771.118 may be approved by FRA when the applicable requirements of those sections have been met. FRA may consult with FHWA or FTA to ensure the CE is applicable to the proposed action.

§ 771.117 FHWA categorical exclusions.

(a) CEs are actions that, based on FHWA's past experience with similar actions, normally do not involve significant environmental impacts. They are actions that: Do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise have any significant environmental impacts.

(b) Any action that normally would be classified as a CE but could involve unusual circumstances will require the FHWA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

(1) Significant environmental impacts;

(2) Substantial controversy on environmental grounds;

(3) Significant impact on properties protected by Section 4(f) requirements or Section 106 of the National Historic Preservation Act; or

(4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

(c) The following actions meet the criteria for CEs in paragraph (a) of this section and normally do not require any further NEPA approvals by the FHWA:

(1) Activities that do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so social, economic, and environmental effects can be assessed; and Federal-aid system revisions establishing classes of highways on the Federal-aid highway system.

(2) Approval of utility installations along or across a transportation facility.

(3) Construction of bicycle and pedestrian lanes, paths, and facilities.

(4) Activities included in the State's highway safety plan under 23 U.S.C. 402.

(5) Transfer of Federal lands pursuant to 23 U.S.C. 107(d) and/or 23 U.S.C. 317 when the land transfer is in support of an action not otherwise subject to FHWA review under NEPA.

(6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.

(7) Landscaping.

(8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.

(9) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):

(i) Emergency repairs under 23 U.S.C. 125; and

(ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), in operation or under construction when damaged and the action:

(A) Occurs within the existing right-of-way and in a manner that substantially conforms to the

preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(B) Is commenced within a 2-year period beginning on the date of the declaration.

(10) Acquisition of scenic easements.

(11) Determination of payback under 23 U.S.C. 156 for property previously acquired with Federal-aid participation.

(12) Improvements to existing rest areas and truck weigh stations.

(13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities that themselves are within a CE.

(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.

(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives.

(21) Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.

(22) Projects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way means all real property interests acquired for the construction, operation, or mitigation of a project. This area includes the features associated with the

physical footprint of the project including but not limited to the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access highway. This also includes fixed guideways, mitigation areas, areas maintained or used for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transportation power substations, transportation venting structures, and transportation maintenance facilities.

(23) Federally funded projects:

(i) Receiving less than \$5,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.transit.dot.gov) of Federal funds; or

(ii) With a total estimated cost of not more than \$30,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.fta.dot.gov) and Federal funds comprising less than 15 percent of the total estimated project cost.

(24) Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(25) Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) carried out to address water pollution or environmental degradation.

(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in paragraph (e) of this section.

(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of this section.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in paragraph (e) of this section.

(29) Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) not requiring a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities that themselves are within a CE.

(30) Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

(d) Additional actions that meet the criteria for a CE in paragraph (a) of this section may be designated as CEs only after Administration approval unless otherwise authorized under an executed agreement pursuant to paragraph (g) of this section. The applicant must submit documentation that demonstrates that the specific conditions or criteria for these CEs are satisfied, and that significant environmental effects will not result. Examples of such actions include but are not limited to:

(1)–(3) [Reserved]

(4) Transportation corridor fringe parking facilities.

(5) Construction of new truck weigh stations or rest areas.

(6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.

(7) Approvals for changes in access control.

(8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.

(9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required, and there is not a substantial increase in the number of users.

(10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas,

kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.

(11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning, and where there is no significant noise impact on the surrounding community.

(12) Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.

(i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

(ii) Protective acquisition is done to prevent imminent development of a parcel that may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

(13) Actions described in paragraphs (c)(26), (c)(27), and (c)(28) of this section that do not meet the constraints in paragraph (e) of this section.

(e) Actions described in (c)(26), (c)(27), and (c)(28) of this section may not be processed as CEs under paragraph (c) if they involve:

(1) An acquisition of more than a minor amount of right-of-way or would result in any residential or non-residential displacements;

(2) An action that needs a bridge permit from the U.S. Coast Guard, or an action that does not meet the terms and conditions of a U.S. Army Corps of Engineers nationwide or general permit under section 404 of the Clean Water

Act and/or section 10 of the Rivers and Harbors Act of 1899;

(3) A finding of "adverse effect" to historic properties under the National Historic Preservation Act, the use of a resource protected under 23 U.S.C. 138 or 49 U.S.C. 303 (section 4(f)) except for actions resulting in *de minimis* impacts, or a finding of "may affect, likely to adversely affect" threatened or endangered species or critical habitat under the Endangered Species Act;

(4) Construction of temporary access or the closure of existing road, bridge, or ramps that would result in major traffic disruptions;

(5) Changes in access control;

(6) A floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions facilitating open space use (e.g., recreational trails, bicycle and pedestrian paths); or construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

(f) Where a pattern emerges of granting CE status for a particular type of action, the FHWA will initiate rulemaking proposing to add this type of action to the list of categorical exclusions in paragraph (c) or (d) of this section, as appropriate.

(g) FHWA may enter into programmatic agreements with a State to allow a State DOT to make a NEPA CE certification or determination and approval on FHWA's behalf, for CEs specifically listed in paragraphs (c) and (d) of this section and are identified in the programmatic agreement. Such agreements must be subject to the following conditions:

(1) The agreement must set forth the State DOT's responsibilities for making CE determinations, documenting the determinations, and achieving acceptable quality control and quality assurance;

(2) The agreement may not have a term of more than five years, but may be renewed;

(3) The agreement must provide for FHWA's monitoring of the State DOT's compliance with the terms of the agreement and for the State DOT's execution of any needed corrective action. FHWA must take into account the State DOT's performance when considering renewal of the programmatic CE agreement; and

(4) The agreement must include stipulations for amendment, termination, and public availability of the agreement once it has been executed.

(h) Any action qualifying as a CE under § 771.116 or § 771.118 may be

approved by FHWA when the applicable requirements of those sections have been met. FHWA may consult with FRA or FTA to ensure the CE is applicable to the proposed action.

§ 771.118 FTA categorical exclusions.

(a) CEs are actions that, based on FTA's past experience with similar actions, do not involve significant environmental impacts. They are actions that: Do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise have any significant environmental impacts.

(b) Any action that normally would be classified as a CE but could involve unusual circumstances will require FTA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

(1) Significant environmental impacts;

(2) Substantial controversy on environmental grounds;

(3) Significant impact on properties protected by Section 4(f) requirements or Section 106 of the National Historic Preservation Act; or

(4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

(c) Actions that FTA determines fall within the following categories of FTA CEs and that meet the criteria for CEs in paragraph (a) of this section normally do not require any further NEPA approvals by FTA.

(1) Acquisition, installation, operation, evaluation, replacement, and improvement of discrete utilities and similar appurtenances (existing and new) within or adjacent to existing transportation right-of-way, such as: Utility poles, underground wiring, cables, and information systems; and power substations and utility transfer stations.

(2) Acquisition, construction, maintenance, rehabilitation, and improvement or limited expansion of stand-alone recreation, pedestrian, or bicycle facilities, such as: A multiuse pathway, lane, trail, or pedestrian bridge; and transit plaza amenities.

(3) Activities designed to mitigate environmental harm that cause no harm themselves or to maintain and enhance environmental quality and site

aesthetics, and employ construction best management practices, such as: Noise mitigation activities; rehabilitation of public transportation buildings, structures, or facilities; retrofitting for energy or other resource conservation; and landscaping or re-vegetation.

(4) Planning and administrative activities not involving or leading directly to construction, such as: Training, technical assistance and research; promulgation of rules, regulations, directives, or program guidance; approval of project concepts; engineering; and operating assistance to transit authorities to continue existing service or increase service to meet routine demand.

(5) Activities, including repairs, replacements, and rehabilitations, designed to promote transportation safety, security, accessibility and effective communication within or adjacent to existing right-of-way, such as: The deployment of Intelligent Transportation Systems and components; installation and improvement of safety and communications equipment, including hazard elimination and mitigation; installation of passenger amenities and traffic signals; and retrofitting existing transportation vehicles, facilities or structures, or upgrading to current standards.

(6) Acquisition or transfer of an interest in real property not within or adjacent to recognized environmentally sensitive areas (*e.g.*, wetlands, non-urban parks, wildlife management areas) and does not result in a substantial change in the functional use of the property or in substantial displacements, such as: Acquisition for scenic easements or historic sites for the purpose of preserving the site. This CE extends only to acquisitions and transfers that will not limit the evaluation of alternatives for future FTA-assisted projects making use of the acquired or transferred property.

(7) Acquisition, installation, rehabilitation, replacement, and maintenance of vehicles or equipment, within or accommodated by existing facilities, not resulting in a change in functional use of the facilities, such as: Equipment to be located within existing facilities and with no substantial off-site impacts; and vehicles, including buses, rail cars, trolley cars, ferry boats and people movers that can be accommodated by existing facilities or by new facilities that qualify for a categorical exclusion.

(8) Maintenance, rehabilitation, and reconstruction of facilities occupying substantially the same geographic footprint and not resulting in a change

in functional use, such as:

Improvements to bridges, tunnels, storage yards, buildings, stations, and terminals; construction of platform extensions, passing track, and retaining walls; and improvements to tracks and railbeds.

(9) Assembly or construction of facilities that is consistent with existing land use and zoning requirements (including floodplain regulations) and uses primarily land disturbed for transportation use, such as: Buildings and associated structures; bus transfer stations or intermodal centers; busways and streetcar lines or other transit investments within areas of the right-of-way occupied by the physical footprint of the existing facility or otherwise maintained or used for transportation operations; and parking facilities.

(10) Development of facilities for transit and non-transit purposes, located on, above, or adjacent to existing transit facilities, that are not part of a larger transportation project and do not substantially enlarge such facilities, such as: Police facilities, daycare facilities, public service facilities, amenities, and commercial, retail, and residential development.

(11) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):

(i) Emergency repairs under 49 U.S.C. 5324; and

(ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), in operation or under construction when damaged and the action:

(A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(B) Is commenced within a 2-year period beginning on the date of the declaration.

(12) Projects, as defined in 23 U.S.C. 101, taking place entirely within the existing operational right-of-way. Existing operational right-of-way means all real property interests acquired for

the construction, operation, or mitigation of a project. This area includes the features associated with the physical footprint of the project including but not limited to the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access highway. This also includes fixed guideways, mitigation areas, areas maintained or used for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transportation power substations, transportation venting structures, and transportation maintenance facilities.

(13) Federally funded projects:

(i) Receiving less than \$5,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.transit.dot.gov) of Federal funds; or

(ii) With a total estimated cost of not more than \$30,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.transit.dot.gov) and Federal funds comprising less than 15 percent of the total estimated project cost.

(14) Bridge removal and bridge removal related activities, such as in-channel work, disposal of materials and debris in accordance with applicable regulations, and transportation facility realignment.

(15) Preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way to prevent damage to the transportation facility and adjoining property, plus any necessary channel work, such as restoring, replacing, reconstructing, and rehabilitating culverts and drainage pipes; and expanding existing culverts and drainage pipes.

(16) Localized geotechnical and other investigations to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(d) Additional actions that meet the criteria for a CE in paragraph (a) of this section may be designated as CEs only after FTA approval. The applicant must submit documentation demonstrating the specific conditions or criteria for these CEs are satisfied and that

significant environmental effects will not result. Examples of such actions include but are not limited to:

(1) Modernization of a highway by resurfacing, restoring, rehabilitating, or reconstructing shoulders or auxiliary lanes (e.g., lanes for parking, weaving, turning, climbing).

(2) Bridge replacement or the construction of grade separation to replace existing at-grade railroad crossings.

(3) Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.

(i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

(ii) Protective acquisition is done to prevent imminent development of a parcel that may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate development of the land would preclude future transportation use and such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

(4) Acquisition of right-of-way. No project development on the acquired right-of-way may proceed until the NEPA process for such project development, including the consideration of alternatives, is completed.

(5) [Reserved]

(6) Facility modernization through construction or replacement of existing components.

(7) Minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, and improving sight distance at railroad crossings.

(8) Modernization or minor expansions of transit structures and facilities outside existing right-of-way, such as bridges, stations, or rail yards.

(e) Any action qualifying as a CE under § 771.116 or § 771.117 may be approved by FTA when the applicable requirements of those sections are met. FTA may consult with FHWA or FRA to ensure the CE is applicable to the proposed action.

(f) Where a pattern emerges of granting CE status for a particular type of action, FTA will initiate rulemaking proposing to add this type of action to the appropriate list of categorical exclusions in this section.

§ 771.119 Environmental assessments.

(a)(1) The applicant must prepare an EA in consultation with the Administration for each action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown, unless the agency finds that the proposed action is a CE and does not clearly require the preparation of an EIS.

(2) For FTA, the contractor's scope of work for the preparation of the EA should not be finalized until the early coordination activities or scoping process found in paragraph (b) of this section is completed (including FTA approval, in consultation with the applicant, of the scope of the EA content).

(b) For actions that require an EA, the applicant, in consultation with the Administration, must, at the earliest appropriate time, begin consultation with interested agencies and others to advise them of the scope of the project, including project's purpose and need, and alternatives to achieve the following objectives: Determine which aspects of the proposed action have potential for reasonably foreseeable social, economic, or environmental impacts; identify alternatives and measures that might mitigate adverse environmental impacts; and identify other environmental review and consultation requirements that should be performed concurrently with the EA. The applicant must accomplish this through early coordination activities or through a scoping process. The applicant must summarize the public involvement process and include the results of agency coordination in the EA.

(c) The Administration must approve the EA before it is made available to the public as an Administration document.

(d) The applicant does not need to circulate the EA for comment, but the document must be made available for public inspection at the applicant's office and at the appropriate Administration field offices or, for FRA at Headquarters, for 30 days and in accordance with paragraphs (e) and (f)

of this section. The applicant must send the notice of availability of the EA, which briefly describes the action and its impacts, to the affected units of Federal, Tribal, State and local government. The applicant must also send notice to the State intergovernmental review contacts established under Executive Order 12372. To minimize hardcopy requests and printing costs, the Administration encourages the use of project websites or other publicly accessible electronic means to make the EA available.

(e) When a public hearing is held as part of the environmental review process for an action, the EA must be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The applicant must publish a notice of the public hearing in local newspapers announcing the availability of the EA and where it may be obtained or reviewed. Any comments must be submitted in writing to the applicant or the Administration during the 30-day availability period of the EA unless the Administration determines, for good cause, a different period is warranted. Public hearing requirements are as described in § 771.111.

(f) When a public hearing is not held, the applicant must place a notice in a newspaper(s) similar to a public hearing notice and at a similar stage of development of the action, advising the public of the availability of the EA and where information concerning the action may be obtained. The notice must invite comments from all interested parties. Any comments must be submitted in writing to the applicant or the Administration during the 30-day availability period of the EA unless the Administration determines, for good cause, a different period is warranted.

(g) If no significant impacts are identified, the applicant must furnish the Administration a copy of the revised EA, as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a FONSI. The EA should also document compliance, to the extent possible, with all applicable environmental laws and executive orders, or provide reasonable assurance that their requirements can be met.

(h) When the FHWA expects to issue a FONSI for an action described in § 771.115(a), copies of the EA must be made available for public review (including the affected units of government) for a minimum of 30 days before the FHWA makes its final decision. This public availability must be announced by a notice similar to a public hearing notice.

(i) If, at any point in the EA process, the Administration determines the action is likely to have a significant impact on the environment, the preparation of an EIS will be required, unless the Administration imposes mitigation measures or modifies the action to avoid the significant effects.

(j) If the Administration decides to apply 23 U.S.C. 139 to an action involving an EA, then the EA must be prepared in accordance with the applicable provisions of that statute.

§ 771.121 Findings of no significant impact.

(a) The Administration will review the EA, comments submitted on the EA (in writing or at a public hearing or meeting), and other supporting documentation, as appropriate. If the Administration agrees with the applicant's recommendations pursuant to § 771.119(g), the Administration will issue a written FONSI incorporating by reference the EA and any other appropriate supporting documentation.

(b) After the Administration issues a FONSI, a notice of availability of the FONSI must be sent by the applicant to the affected units of Federal, State, and local government, and the document must be available from the applicant and the Administration upon request by the public. Notice must also be sent to the State intergovernmental review contacts established under Executive Order 12372. To minimize hardcopy requests and printing costs, the Administration encourages the use of project websites or other publicly accessible electronic means to make the FONSI available.

§ 771.123 Draft environmental impact statements.

(a) A draft EIS must be prepared when the Administration determines that the action is likely to cause significant impacts on the quality of the human environment. When the applicant, after consultation with any project sponsor that is not the applicant, has notified the Administration in accordance with 23 U.S.C. 139(e), and the decision has been made by the Administration to prepare an EIS, the Administration will issue a notice of intent for publication in the **Federal Register**. Applicants are encouraged to announce the intent to prepare an EIS by appropriate means at the State or local level.

(b)(1) Prior to the notice of intent, the lead agencies, in cooperation with the applicant (if not a lead agency), will begin a scoping process that may take into account any planning work already accomplished, in accordance with 23 CFR 450.212, 450.318, or 23 CFR part

450 Appendix A. The scoping process will be used to identify the purpose and need, the range of alternatives and reasonably foreseeable impacts, and the significant issues to be addressed in the EIS. Scoping is normally achieved through public and agency involvement procedures required by § 771.111. If a scoping meeting is to be held, it should be announced in the Administration's notice of intent and by appropriate means at the State or local level.

(2) For projects subject to 23 U.S.C. 139, the lead agencies must establish a coordination plan, including a schedule, within 90 days of notice of intent publication.

(c) The draft EIS must be prepared by the lead agencies, in cooperation with the applicant (if not a lead agency) or prepared by the project sponsor in accordance with § 771.109(e). The draft EIS must evaluate a reasonable range of alternatives to the action and document the reasons why other alternatives, which may have been considered, were eliminated from detailed study. The range of alternatives considered for further study must be used for all Federal environmental reviews and permit processes, to the maximum extent practicable and consistent with Federal law, unless the lead and participating agencies agree to modify the alternatives in order to address significant new information and circumstances or to fulfill NEPA responsibilities in a timely manner, in accordance with 23 U.S.C. 139(f)(4)(B). The draft EIS must also summarize the studies, reviews, consultations, and coordination required by environmental laws or executive orders to the extent appropriate at this stage in the environmental process.

(d) Any of the lead agencies or the applicant may select a consultant to assist in the preparation of an EIS in accordance with applicable contracting procedures. For FTA, the contractor's scope of work for the preparation of the EIS will not be finalized until the early coordination activities or scoping process found in paragraph (b) of this section is completed (including FTA approval, in consultation with the applicant, of the scope of the EIS content).

(e) The draft EIS should identify the preferred alternative to the extent practicable. If the draft EIS does not identify the preferred alternative, the Administration should provide agencies and the public with an opportunity after issuance of the draft EIS to review the reasonably foreseeable impacts of the preferred alternative.

(f) At the discretion of the lead agency, the preferred alternative (or

portion thereof) for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or compliance with other legal requirements, including permitting. The development of such higher level of detail must not prevent the lead agency from making an impartial decision as to whether to accept another alternative being considered in the environmental review process.

(g) The Administration, when satisfied that the draft EIS complies with NEPA requirements, will approve the draft EIS for circulation by signing and dating the cover sheet. The cover sheet should include a notice that after circulation of the draft EIS and consideration of the comments received, the Administration will issue a combined final EIS/ROD document unless statutory criteria or practicability considerations preclude issuance of the combined document.

(h) A lead, joint lead, or cooperating agency must be responsible for publication and distribution of the EIS. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the draft EIS may be charged a fee not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed. To minimize hardcopy requests and printing costs, the Administration encourages the use of project websites or other publicly accessible electronic means to make the draft EIS available.

(i) The applicant, on behalf of the Administration, must circulate the draft EIS for comment. The draft EIS must be made available to the public and transmitted to agencies for comment no later than the time the document is filed with the Environmental Protection Agency. The draft EIS must be transmitted to:

(1) Public officials, interest groups, and members of the public known to have an interest in the proposed action or the draft EIS;

(2) Cooperating and participating agencies. The draft EIS must also be transmitted directly to appropriate State and local agencies, and to the State intergovernmental review contacts established under Executive Order 12372; and

(3) States and Federal land management entities that may be significantly affected by the proposed action or any of the alternatives. These transmittals must be accompanied by a request that such State or entity advise the Administration in writing of any

disagreement with the evaluation of impacts in the statement. The Administration will furnish the comments received to the applicant along with a written assessment of any disagreements for incorporation into the final EIS.

(j) When a public hearing on the draft EIS is held (if required by § 771.111), the draft EIS must be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The availability of the draft EIS must be mentioned, and public comments requested, in any public hearing notice and at any public hearing presentation. If a public hearing on an action proposed for FHWA funding is not held, a notice must be made similar to a public hearing notice advising where the draft EIS is available for review, how copies may be obtained, and where the comments should be sent.

(k) The **Federal Register** public availability notice must establish a period of not fewer than 45 days nor more than 60 days for the return of comments on the draft EIS unless a different period is established in accordance with 23 U.S.C. 139(g)(2)(A). The notice and the draft EIS transmittal letter must identify where comments are to be sent.

§ 771.124 Final environmental impact statement/record of decision document.

(a)(1) After circulation of a draft EIS and consideration of comments received, the lead agency, in cooperation with the applicant (if not a lead agency), must combine the final EIS and ROD, to the maximum extent practicable, unless:

(i) The final EIS makes substantial changes to the proposed action relevant to environmental or safety concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns that bear on the proposed action or the reasonably foreseeable impacts of the proposed action.

(2) When the combined final EIS/ROD is a single document, it must include the content of a final EIS presented in § 771.125 and present the basis for the decision, summarize any mitigation measures that will be incorporated in the project, and document any required Section 4(f) approval in accordance with part 774 of this chapter.

(3) If the comments on the draft EIS are minor and confined to factual corrections or explanations that do not warrant additional agency response, an errata sheet may be attached to the draft statement pursuant to 23 U.S.C. 139(n)(1), which together must then become the combined final EIS/ROD.

(4) A combined final EIS/ROD will be reviewed for legal sufficiency prior to issuance by the Administration.

(5) The Administration must indicate approval of the combined final EIS/ROD by signing the document. The provision on Administration's Headquarters prior concurrence in § 771.125(c) applies to the combined final EIS/ROD.

(b) The **Federal Register** public availability notice published by EPA will not establish a waiting period or a period of time for the return of comments on a combined final EIS/ROD. When filed with EPA, the combined final EIS/ROD must be available at the applicant's offices and at appropriate Administration offices. A copy should also be made available at institutions such as local government offices, libraries, and schools, as appropriate. To minimize hardcopy requests and printing costs, the Administration encourages the use of project websites or other publicly accessible electronic means to make the combined final EIS/ROD available.

§ 771.125 Final environmental impact statements.

(a)(1) After circulation of a draft EIS and consideration of comments received, a final EIS must be prepared by the lead agencies, in cooperation with the applicant (if not a lead agency). The final EIS must identify the preferred alternative and evaluate all reasonable alternatives considered. It must also discuss substantive comments received on the draft EIS and responses thereto, summarize public involvement, and describe the mitigation measures to be incorporated into the proposed action. Mitigation measures presented as commitments in the final EIS will be incorporated into the project as specified in paragraphs (b) and (d) of § 771.109. The final EIS should also document compliance, to the extent possible, with all applicable environmental laws and executive orders, or provide reasonable assurance their requirements can be met.

(2) Every reasonable effort must be made to resolve interagency disagreements on actions before processing the final EIS. If significant issues remain unresolved, the final EIS must identify those issues and the consultations and other efforts made to resolve them.

(b) The final EIS will be reviewed for legal sufficiency prior to Administration approval.

(c) The Administration will indicate approval of the EIS for an action by signing and dating the cover page. Final EISs prepared for actions in the following categories will be submitted

to the Administration's Headquarters for prior concurrence:

(1) Any action for which the Administration determines that the final EIS should be reviewed at the Headquarters office. This would typically occur when the Headquarters office determines:

(i) Additional coordination with other Federal, State or local governmental agencies is needed;

(ii) The social, economic, or environmental impacts of the action may need to be more fully explored;

(iii) The impacts of the proposed action are unusually great; (iv) major issues remain unresolved; or

(iv) The action involves national policy issues.

(2) Any action to which a Federal, State, or local government agency has indicated opposition on environmental grounds (which has not been resolved to the written satisfaction of the objecting agency).

(d) Approval of the final EIS is not an Administration action as defined in § 771.107 and does not commit the Administration to approve any future request for financial assistance to fund the preferred alternative.

(e) The initial publication of the final EIS must be in sufficient quantity to meet the request for copies reasonably expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the final EIS may be charged a fee not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

(f) The final EIS must be transmitted to any persons, organizations, or agencies that made substantive comments on the draft EIS or requested a copy, no later than the time the document is filed with EPA. In the case of lengthy documents, the agency may provide alternative circulation processes. The applicant must also publish a notice of availability in local newspapers and make the final EIS available through the mechanism established pursuant to DOT Order 4600.13, which implements Executive Order 12372. When filed with EPA, the final EIS must be available for public review at the applicant's offices and at appropriate Administration offices. A copy should also be made available for public review at institutions such as local government offices, libraries, and schools, as appropriate. To minimize hardcopy requests and printing costs, the Administration encourages the use of project websites or other publicly

accessible electronic means to make the final EIS available.

(g) The final EIS may take the form of an errata sheet pursuant to 23 U.S.C. 139(n)(1).

§ 771.127 Record of decision.

(a) When the final EIS is not combined with the ROD, the Administration will complete and sign a ROD no sooner than 30 days after publication of the final EIS notice in the **Federal Register** or 90 days after publication of a notice for the draft EIS, whichever is later. The ROD will present the basis for the decision, summarize any mitigation measures to be incorporated in the project, and document any required Section 4(f) approval in accordance with part 774 of this chapter. To minimize hardcopy requests and printing costs, the Administration encourages the use of project websites or other publicly accessible electronic means to make the ROD available.

(b) If the Administration subsequently wishes to approve an alternative not identified as the preferred alternative but fully evaluated in the draft EIS, combined FEIS/ROD, or final EIS, or proposes to make substantial changes to the mitigation measures or findings discussed in the ROD, a revised or amended ROD must be subject to review by those Administration offices that reviewed the final EIS under § 771.124(a) or § 771.125(c). To the extent practicable, the approved revised or amended ROD must be provided to all persons, organizations, and agencies that received a copy of the final EIS.

§ 771.129 Re-evaluations.

The Administration must determine, prior to granting any new approval related to an action or amending any previously approved aspect of an action, including mitigation commitments, whether an approved environmental document remains valid as described in this section.

(a) The applicant must prepare a written evaluation of the draft EIS, in cooperation with the Administration, if an acceptable final EIS is not submitted to the Administration within three years from the date of the draft EIS circulation. The purpose of this evaluation is to determine whether or not a supplement to the draft EIS or a new draft EIS is needed.

(b) The applicant must prepare a written evaluation of the final EIS before the Administration may grant further approvals if major steps to advance the action (e.g., authority to undertake final design, authority to acquire a significant portion of the right-of-way, or approval

of the plans, specifications and estimates) have not occurred within three years after the approval of the final EIS, final EIS supplement, or the last major Administration approval or grant.

(c) After the Administration issues a combined final EIS/ROD, ROD, FONSI, or CE designation, the applicant must consult with the Administration prior to requesting any major approvals or grants to establish whether or not the approved environmental document or CE designation remains valid for the requested Administration action. These consultations will be documented when determined necessary by the Administration.

(d) For tiered EAs or EISs, if the second tier occurs 5 or more years after the first tier document, the applicant in consultation with the Administration, must re-evaluate the analysis and any underlying assumptions of the first tier EIS or EA to ensure reliance on the analysis remains valid.

§ 771.130 Supplemental environmental impact statements.

(a) A draft EIS, final EIS, or supplemental EIS may be supplemented at any time. An EIS must be supplemented whenever the Administration determines:

(1) Changes to the proposed action would result in significant environmental impacts not evaluated in the EIS; or

(2) New information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

(b) However, a supplemental EIS will not be necessary where:

(1) The changes to the proposed action, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the EIS without causing other reasonably foreseeable environmental impacts that are significant and were not evaluated in the EIS; or

(2) The Administration decides to approve an alternative fully evaluated in an approved final EIS but not identified as the preferred alternative. In such a case, a revised ROD must be prepared and circulated in accordance with § 771.127(b).

(c) Where the Administration is uncertain of the significance of the new impacts, the applicant will develop appropriate environmental studies or, if the Administration deems appropriate, an EA to assess the reasonably foreseeable impacts of the changes, new information, or new circumstances. If,

based upon the studies, the Administration determines that a supplemental EIS is not necessary, the Administration must so indicate in the project file.

(d) A supplement is to be developed using the same process and format (*i.e.*, draft EIS, final EIS, and ROD) as an original EIS, except scoping is not required.

(e) In some cases, an EA or supplemental EIS may be required to address issues of limited scope, such as the extent of proposed mitigation or the evaluation of location or design variations for a limited portion of the overall project. Where this is the case, the preparation of a supplemental document must not necessarily:

(1) Prevent the granting of new approvals;

(2) Require the withdrawal of previous approvals; or

(3) Require the suspension of project activities, for any activity not directly affected by the supplement. If the changes in question are of such magnitude to require a reassessment of the entire action, or more than a limited portion of the overall action, the Administration must suspend any activities that would have an adverse environmental impact or limit the choice of reasonable alternatives, until the supplemental document is completed.

§ 771.131 Emergency action procedures.

Responses to some emergencies and disasters are categorically excluded under § 771.117 for FHWA, § 771.118 for FTA, or § 771.116 for FRA. Otherwise, requests for deviations from the procedures in this part because of emergency circumstances must be referred to the Administration's Headquarters for evaluation and decision after consultation with CEQ.

§ 771.133 Compliance with other requirements.

(a) The combined final EIS/ROD, final EIS or FONSI should document compliance with requirements of all applicable environmental laws, executive orders, and other related requirements. If full compliance is not possible by the time the combined final EIS/ROD, final EIS or FONSI is prepared, the combined final EIS/ROD, final EIS or FONSI should reflect consultation with the appropriate agencies and provide reasonable assurance that the requirements will be met. Approval of the environmental document constitutes adoption of any Administration findings and determinations that are contained therein. FHWA's approval of an

environmental document constitutes its finding of compliance with the report requirements of 23 U.S.C. 128.

(b) In consultation with the Administration and subject to Administration approval, an applicant may develop a programmatic approach for compliance with the requirements of any law, regulation, or executive order applicable to the project development process.

§ 771.137 International actions.

(a) If the Administration determines a major Federal action is proposed, the requirements of this part apply to:

(1) Administration actions significantly affecting the environment of a foreign nation not participating in the action or not otherwise involved in the action.

(2) Administration actions outside the U.S., its territories, and possessions that significantly affect natural resources of global importance designated for protection by the President or by international agreement.

(b) If communication with a foreign government concerning environmental studies or documentation is anticipated, the Administration must coordinate such communication with the Department of State through the Office of the Secretary of Transportation.

§ 771.138 Timelines, page limits, and certifications

(a)(1) Timelines for completion of EISs.

(i) The Administration must complete the EIS no later than 2 years from publication of the notice of intent to the signature date of the ROD or combined final EIS/ROD (as applicable).

(ii) For EISs that are major projects, the Administration must, to the maximum extent practicable, complete the EIS within a schedule consistent with an agency average of not more than 2 years from publication of the notice of intent to the signature date of the ROD or combined final EIS/ROD.

(2) Timelines for completion of EAs.

(i) The Administration must complete the EA no later than 1 year from the date the Administration determined the class of action to the signature date of the EA. If a notice of intent is published for an EA, then the start date shall be the publication date.

(ii) For EAs that are major projects, the Administration must, to the maximum extent practicable, complete the EA within a schedule consistent with an agency average of not more than 2 years from the date the Administration determined the EA was required to the signature date of the FONSI. If a notice of intent is published for an EA, then

the start date shall be the publication date.

(3) The Administration, in consultation with the applicant, may extend the timelines described in paragraphs (a)(1)(i) and (a)(2)(i) to provide only so much additional time as necessary to complete the EIS or EA, as applicable.

(b) Page Limits.

(1) EIS—

(i) The text of an EIS must not exceed 200 pages, not including citations or appendices, to the maximum extent practicable, unless the Administration establishes a new page limit;

(ii) When a project does not follow the 23 U.S.C. 139 process, the EIS must not exceed 150 pages, not including citations or appendices. An EIS for a proposed action of extraordinary complexity must not exceed 300 pages, not including any citations or appendices.

(2) The text of an EA must not exceed 75 pages, not including any citations or appendices.

(c) Certifications.

(1) The lead agency(ies) signature on the EA, draft EIS, final EIS, or combined final EIS/ROD (as applicable) will certify that the Administration has considered the factors mandated by this part; that the EA, draft EIS, final EIS, or combined final EIS/ROD (as applicable), reflects the Administration's expert judgment and documents the most important considerations required by the statute and within the applicable timeline and page limits; and that any considerations addressed briefly or left unaddressed were, in the Administration's judgment, comparatively unimportant.

(2) [Reserved]

§ 771.139 Limitations on actions.

Notices announcing decisions by the Administration or by other Federal agencies on a transportation project may be published in the **Federal Register** indicating such decisions are final within the meaning of 23 U.S.C. 139(l). Claims arising under Federal law seeking judicial review of any such decisions are time barred unless filed within 150 days after the date of publication of the limitations on claims notice by FHWA or FTA. Claims arising under Federal law seeking judicial review of any such decisions are time barred unless filed within 2 years after the date of publication of the limitations on claims notice by FRA. These time periods do not lengthen any shorter time period for seeking judicial review that otherwise is established by the Federal law under which judicial review is allowed. This provision does

not create any right of judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

§ 771.141 Reliance and Adoption Efficiencies

(a) When a single environmental document is not prepared for a proposed major Federal action, an agency may rely upon an existing environmental document, or element thereof, to document compliance with NEPA as follows:

(1) Any Federal agency may rely upon an environmental document prepared in accordance with 23 U.S.C. 139 to the same extent such Federal agency could adopt or use a document prepared by another Federal agency.

(2) The Administration may rely upon an existing environmental document not prepared in accordance with 23 U.S.C. 139 if the Administration determines that the proposed action is substantially the same as the action covered in the existing environmental document and that the environmental issues were adequately identified and addressed.

(3) The Administration may rely upon an existing categorical exclusion decision by another Federal agency if the Administration determines that a proposed major Federal action is substantially the same as the action that another Federal agency determined is categorically excluded from NEPA.

(4) A Federal land management agency may rely upon an existing environmental document or categorical exclusion decision prepared by FHWA for a project addressing substantially the same major Federal action proposed for approval by the Federal land management agency.

(b) Adoption of Categorical Exclusions under 42 U.S.C. 4336c:

(1) FHWA, FRA, or FTA may establish a new categorical exclusion by adopting a category of action listed as a categorical exclusion in another agency's NEPA procedures.

(2) A State functioning as FHWA, FRA, or FTA in carrying out responsibilities delegated or assigned to the State in accordance with 23 U.S.C. 326 or 327 may not establish a new categorical exclusion through adoption.

(3) To establish the new categorical exclusion, the Administration will:

(i) Identify the categorical exclusion listed in another agency's NEPA procedures that covers a category of proposed actions or related actions;

(ii) Consult with the agency that established this categorical exclusion to ensure that the proposed adoption of the categorical exclusion to a category of

Administration actions is appropriate; and

(iii) Provide public notification that the Administration plans to use the categorical exclusion for its proposed actions by documenting its adoption.

(4) The Administration may begin to apply the newly adopted categorical exclusion to proposed major Federal actions upon completion of subparagraphs (b)(3)(i)–(iii).

Title 49—Transportation

Part 264—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

■ 2. Revise the authority citation for part 264 to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 303 and 24201; 23 U.S.C. 139, 327, 330; 49 CFR 1.81; Pub. L. 112–141, 126 Stat. 405, Section 1319; and Pub. L. 114–94, 129 Stat. 1312, Sections 1309, 1432, 11502, and 11503.

■ 3. Revise part 622, subpart A to read as follows:

Part 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Subpart A—Environmental Procedures

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 303, 5323(c), and 5323(q); 23 U.S.C. 139, 326, 327, and 330; Pub. L. 109–59, 119 Stat. 1144, Sections 6002 and 6010; 49 CFR 1.81; Pub. L. 112–141, 126 Stat. 405, Sections 1315, 1316, 1317, and 1318; and Pub. L. 114–94, Section 1309.

§ 622.101 Cross-reference to procedures.

The procedures for complying with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and related statutes, regulations, and Executive Orders are set forth in part 771 of Title 23 of the CFR, including compliance with FTA's environmental review statute located at 49 U.S.C. 5323(c). The procedures for complying with 49 U.S.C. 303, commonly known as “Section 4(f),” are set forth in part 774 of Title 23 of the CFR. The procedures for complying with the Surface Transportation Project Delivery Program application requirements and termination are set forth in part 773 of Title 23 of the CFR. The procedures for participating and complying with the program for eliminating duplication of environmental reviews are set forth in part 778 of Title 23 of the CFR.

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DEPARTMENT OF JUSTICE

28 CFR Part 85

[Docket No. OLP 178]

Civil Monetary Penalties Inflation Adjustments for 2025

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is adjusting for inflation the civil monetary penalties assessed or enforced by components of the Department, in accordance with the provisions of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, for penalties assessed after [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**] with respect to violations occurring after November 2, 2015.

DATES: This rule is effective July 3, 2025.

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, Room 4252 RFK Building, 950 Pennsylvania Avenue NW, Washington, DC 20530, telephone (202) 514–8059 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Statutory Process for Implementing Annual Inflation Adjustments

In accordance with the requirements of section 4 of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, Public Law 101–410 (the “Inflation Adjustment Act”), as amended, (28 U.S.C. 2461 note) Justice is required periodically to adjust for inflation the civil monetary penalties assessed or enforced by the Department by publishing a rule in the **Federal Register**.

Section 701 of the Bipartisan Budget Act of 2015, Public Law 114–74 (Nov. 2, 2015) (“BBA”), substantially revised the prior provisions of the Inflation Adjustment Act and substituted a different statutory formula for calculating inflation adjustments on an annual basis.

The BBA further requires agencies to adjust their civil penalties on January 15 of each year thereafter to account for inflation during the preceding year.

Pursuant to the Inflation Adjustment Act, as amended, the Department has promulgated a series of rules adjusting the civil money penalties for inflation. Readers may refer to the **SUPPLEMENTARY INFORMATION** (also known as the preamble) of the Department's prior inflation adjustment rules for additional background information regarding the

statutory authority for adjustments of civil monetary penalty amounts to take account of inflation and the Department's past implementation of inflation adjustments.

Most recently, the Department published a final rule on February 12, 2024 (89 FR 9764), to adjust the civil money penalties to account for inflation occurring since 2023.

II. Inflation Adjustments Made by This Rule

As required, the Department is publishing this final rule to adjust for 2025 the Department's current civil penalties. Under the statutory formula, the adjustments made by this rule are based on the Bureau of Labor Statistics' Consumer Price Index for October 2024. M-25-02 (Dec. 17, 2024) <https://www.whitehouse.gov/wp-content/uploads/2024/12/M-25-02.pdf> (last visited Dec. 26, 2024) instructs that the applicable inflation factor for this adjustment is 1.02598.

Accordingly, this rule adjusts the civil penalty amounts in 28 CFR 85.5 by applying this inflation factor mechanically to each of the civil penalty amounts listed (rounded to the nearest dollar).

Example

- In 2016, the Program Fraud Civil Remedies Act penalty was increased to \$10,781 in accordance with the adjustment requirements of the BBA.
- For 2017, where the applicable inflation factor was 1.01636, the existing penalty of \$10,781 was multiplied by 1.01636 and revised to \$10,957.
- For 2024, where the applicable inflation factor was 1.03241 the existing penalty of \$13,508 was multiplied by 1.03241 and revised to \$13,946.
- For this final rule in 2025, where the applicable inflation factor is 1.02598 the existing penalty of \$13,946 is multiplied by 1.02598 and revised to \$14,308.

This rule adjusts for inflation civil monetary penalties within the jurisdiction of the Department of Justice for purposes of the Inflation Adjustment Act, as amended. Other agencies are responsible for the inflation adjustments of certain other civil monetary penalties that the Department's litigating components bring suit to collect. The reader should consult the regulations of those other agencies for inflation adjustments to those penalties.

III. Effective Date of Adjusted Civil Penalty Amounts

Under this rule, the adjusted civil penalty amounts for 2025 are applicable only to civil penalties assessed after July

3, 2025, with respect to violations occurring after November 2, 2015, the date of enactment of the BBA.

The penalty amounts set forth in the existing provisions of 28 CFR 85.5, and its accompanying table, are applicable to all covered civil penalties assessed after August 1, 2016, and on or before July 3, 2025, with respect to violations occurring after November 2, 2015.

The revised table in this rule lists the civil penalty amounts as adjusted in 2025 and 2024. For civil penalty amounts as adjusted in years prior to 2024, readers should refer to the appropriate previously-published rule.¹

Civil penalties for violations occurring on or before November 2, 2015, and assessments made on or before August 1, 2016, continue to be subject to the civil monetary penalty amounts set forth in the Department's regulations in 28 CFR parts 20, 22, 36, 68, 71, 76, and 85 as such regulations were in effect prior to August 1, 2016 (or as set forth by statute if the amount had not yet been adjusted by regulation prior to August 1, 2016). See 83 FR 3944.

IV. Statutory and Regulatory Analyses

A. Administrative Procedure Act

The BBA provides that, for each annual adjustment made after the initial adjustments of civil penalties in 2016, the head of an agency shall adjust the civil monetary penalties each year notwithstanding 5 U.S.C. 553. Accordingly, this rule is being issued as a final rule without prior notice and public comment, and without a delayed effective date.

B. Regulatory Flexibility Act

Only those entities that are determined to have violated Federal law and regulations would be affected by the increase in the civil penalty amounts made by this rule. A Regulatory Flexibility Act analysis is not required for this rule because publication of a notice of proposed rulemaking was not required. See 5 U.S.C. 603(a).

C. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This final rule has been drafted in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), The Principles of

Regulation, and in accordance with Executive Order 13563, "Improving Regulation and Regulatory Review," section 1, General Principles of Regulation. The Department of Justice has determined that this rule is not a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," section 3(f), and, accordingly, this rule has not been reviewed by the Office of Management and Budget. This final rule implements the BBA by making an across-the-board adjustment of the civil penalty amounts in 28 CFR 85.5 to account for inflation since the adoption of the Department's final rule published on January 30, 2023 (88 FR 5776).

Further, as this rule is not a "significant regulatory action" pursuant to Executive Order 12866, it is not an "Executive Order 14192 action" and, accordingly, it is fully exempt from the numerical 10-for-1 and cost offset requirements of Executive Order 14192.

D. Executive Order 13132—Federalism

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

E. Executive Order 12988—Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

F. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (as adjusted for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

G. Congressional Review Act

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

List of Subjects in 28 CFR Part 85

Administrative practice and procedure, Penalties.

¹ 81 FR 42491 (Jun. 30, 2016); 82 FR 9131 (Feb. 3, 2017); 83 FR 3944 (Jan. 29, 2018); 85 FR 37004 (Jun. 19, 2020); 86 FR 70740 (Dec. 13, 2021); 87 FR 27513 (May 9, 2022); 88 FR 5776 (Jan. 30, 2023); 89 FR 9764 (Feb. 12, 2024).

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Assistant Attorney General, Office of Legal Policy, by A.G. Order No. 5328–2022, and for the reasons set forth in the preamble, chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 85—CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT

■ 1. The authority citation for part 85 continues to read as follows:

Authority: 5 U.S.C. 301, 28 U.S.C. 503; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321; Pub. L. 114–74, section 701, 28 U.S.C. 2461 note.

■ 2. Section 85.5 is revised to read as follows:

§ 85.5 Adjustments to penalties for violations occurring after November 2, 2015.

(a) For civil penalties assessed after July 3, 2025, whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction

of the Department are adjusted as set forth in the fifth column of table 1 to this section.

(b) For civil penalties assessed after February 12, 2024, and on or before July 3, 2025 whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department are adjusted as set forth in the fourth column of table 1 to this section.

(c) All figures set forth in table 1 to this section are maximum penalties, unless otherwise indicated.

TABLE 1 TO § 85.5

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 2/12/2024 ¹ (\$)	DOJ penalty assessed after July 3, 2025 ² (\$)
ATF				
18 U.S.C. 922(t)(5)	Brady Law—Nat'l Instant Criminal Check System (NICS); Transfer of firearm without checking NICS.	.....	10,557	10,831
18 U.S.C. 924(p)	Child Safety Lock Act; Secure gun storage or safety device, violation.	.....	3,861	3,961
Civil Division				
12 U.S.C. 1833a(b)(1)	Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) Violation.	28 CFR 85.3(a)(6)	2,449,575	2,513,215
12 U.S.C. 1833a(b)(2)	FIRREA Violation (continuing) (per day).	28 CFR 85.3(a)(7)	2,449,575	2,513,215
12 U.S.C. 1833a(b)(2)	FIRREA Violation (continuing)	28 CFR 85.3(a)(7)	12,247,886	12,566,086
22 U.S.C. 2399b(a)(3)(A)	Foreign Assistance Act; Fraudulent Claim for Assistance (per act).	28 CFR 85.3(a)(8)	7,114	7,299
31 U.S.C. 3729(a)	False Claims Act; ³ Violations	28 CFR 85.3(a)(9)	Min 13,946, Max 27,894	Min 14,308, Max 28,619
31 U.S.C. 3802(a)(1)	Program Fraud Civil Remedies Act; Violations Involving False Claim (per claim).	28 CFR 71.3(a)	13,946	14,308
31 U.S.C. 3802(a)(2)	Program Fraud Civil Remedies Act; Violation Involving False Statement (per statement).	28 CFR 71.3(f)	13,946	14,308
40 U.S.C. 123(a)(1)(A)	Federal Property and Administrative Services Act; Violation Involving Surplus Government Property (per act).	28 CFR 85.3(a)(12)	7,114	7,299
41 U.S.C. 8706(a)(1)(B)	Anti-Kickback Act; Violation Involving Kickbacks ⁴ (per occurrence).	28 CFR 85.3(a)(13)	27,894	28,619
18 U.S.C. 2723(b)	Driver's Privacy Protection Act of 1994; Prohibition on Release and Use of Certain Personal Information from State Motor Vehicle Records—Substantial Non-compliance (per day).	.....	10,289	10,556
18 U.S.C. 216(b)	Ethics Reform Act of 1989; Penalties for Conflict of Interest Crimes ⁵ (per violation).	28 CFR 85.3(c)	122,480	125,662
41 U.S.C. 2105(b)(1)	Office of Federal Procurement Policy Act; ⁶ Violation by an individual (per violation).	.....	127,983	131,308
41 U.S.C. 2105(b)(2)	Office of Federal Procurement Policy Act; ⁶ Violation by an organization (per violation).	.....	1,279,819	1,313,069
42 U.S.C. 5157(d)	Disaster Relief Act of 1974; ⁷ Violation (per violation).	.....	16,170	16,590
Civil Rights Division (excluding immigration-related penalties)				
18 U.S.C. 248(c)(2)(B)(i)	Freedom of Access to Clinic Entrances Act of 1994 ("FACE Act"); Nonviolent physical obstruction, first violation.	28 CFR 85.3(b)(1)(i)	20,516	21,049
18 U.S.C. 248(c)(2)(B)(ii)	FACE Act; Nonviolent physical obstruction, subsequent violation.	28 CFR 85.3(b)(1)(ii)	30,868	31,670

TABLE 1 TO § 85.5—Continued

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 2/12/2024 ¹ (\$)	DOJ penalty assessed after July 3, 2025 ² (\$)
18 U.S.C. 248(c)(2)(B)(i)	FACE Act; Violation other than a nonviolent physical obstruction, first violation.	28 CFR 85.3(b)(2)(i)	30,868	31,670
18 U.S.C. 248(c)(2)(B)(ii)	FACE Act; Violation other than a nonviolent physical violation).	28 CFR 85.3(b)(2)(ii)	51,449	52,786
42 U.S.C. 3614(d)(1)(C)(i)	Fair Housing Act of 1968; first violation.	28 CFR 85.3(b)(3)(i)	127,983	131,308
42 U.S.C. 3614(d)(1)(C)(ii)	Fair Housing Act of 1968; subsequent violation.	28 CFR 85.3(b)(3)(ii)	255,964	262,614
42 U.S.C. 12188(b)(2)(C)(i)	Americans With Disabilities Act; Public accommodations for individuals with disabilities, first violation.	28 CFR 36.504(a)(3)(i)	115,231	118,225
42 U.S.C. 12188(b)(2)(C)(ii)	Americans With Disabilities Act; Public accommodations for individuals with disabilities subsequent violation.	28 CFR 36.504(a)(3)(ii)	230,464	236,451
50 U.S.C. 4041(b)(3)	Servicemembers Civil Relief Act of 2003; first violation.	28 CFR 85.3(b)(4)(i)	77,370	79,380
50 U.S.C. 4041(b)(3)	Servicemembers Civil Relief Act of 2003; subsequent violation.	28 CFR 85.3(b)(4)(ii)	154,741	158,761
Criminal Division				
18 U.S.C. 983(h)(1)	Civil Asset Forfeiture Reform Act of 2000; Penalty for Frivolous Assertion of Claim.	.....	Min 442, Max 8,842	Min 453, Max 9,072
18 U.S.C. 1956(b)	Money Laundering Control Act of 1986; Violation ⁸.	.....	27,894	28,619
DEA				
21 U.S.C. 844a(a)	Anti-Drug Abuse Act of 1988; Possession of small amounts of controlled substances (per violation).	28 CFR 76.3(a)	25,597	26,262
21 U.S.C. 961(1)	Controlled Substance Import Export Act; Drug abuse, import or export.	28 CFR 85.3(d)	88,934	91,245
21 U.S.C. 842(c)(1)(A)	Controlled Substances Act ("CSA"); Violations of 842(a)—other than (5), (10), (16) and (17)—Prohibited acts re: controlled substances (per violation).	.....	80,850	82,950
21 U.S.C. 842(c)(1)(B)(i)	CSA; Violations of 842(a)(5), (10), and (17)—Prohibited acts re: controlled substances.	.....	18,759	19,246
21 U.S.C. 842(c)(1)(B)(ii)	SUPPORT for Patients and Communities Act; Violations of 842(b)(ii)—Failures re: opioids.	.....	121,664	124,825
21 U.S.C. 842(c)(1)(C)	CSA; Violation of 825(e) by importer, exporter, manufacturer, or distributor—False labeling of anabolic steroids (per violation).	.....	647,907	664,740
21 U.S.C. 842(c)(1)(D)	CSA; Violation of 825(e) at the retail level—False labeling of anabolic steroids (per violation).	.....	1,296	1,330
21 U.S.C. 842(c)(2)(C)	CSA; Violation of 842(a)(11) by a business—Distribution of laboratory supply with reckless disregard ⁹.	.....	485,893	498,517
21 U.S.C. 842(c)(2)(D)	SUPPORT for Patients and Communities Act; Violations of 842(a)(5), (10) and (17) by a registered manufacture or distributor of opioids. Failures re: opioids.	.....	608,319	624,123
21 U.S.C. 856(d)	Illicit Drug Anti-Proliferation Act of 2003; Maintaining drug-involved premises ¹⁰.	.....	448,047	459,687
Immigration-Related Penalties				
8 U.S.C. 1324a(e)(4)(A)(i)	Immigration Reform and Control Act of 1986 ("IRCA"); Unlawful employment of aliens, first order (per unauthorized alien).	28 CFR 68.52(c)(1)(i)	Min 698, Max 5,579	Min 716, Max 5,724
8 U.S.C. 1324a(e)(4)(A)(ii)	IRCA; Unlawful employment of aliens, second order (per such alien).	28 CFR 68.52(c)(1)(ii)	Min 5,579, Max 13,946	Min 5,724, Max 14,308

TABLE 1 TO § 85.5—Continued

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 2/12/2024 ¹ (\$)	DOJ penalty assessed after July 3, 2025 ² (\$)
8 U.S.C. 1324a(e)(4)(A)(iii)	IRCA; Unlawful employment of aliens, subsequent order (per such alien).	28 CFR 68.52(c)(1)(iii)	Min 8,369, Max 27,894	Min 8,586, Max 28,619
8 U.S.C. 1324a(e)(5)	IRCA; Paperwork violation (per relevant individual).	28 CFR 68.52(c)(5)	Min 281, Max 2,789	Min 288, Max 2,861
8 U.S.C. 1324a (note)	IRCA; Violation relating to participating employer's failure to notify of final nonconfirmation of employee's employment eligibility (per relevant individual).	28 CFR 68.52(c)(6)	Min 973, Max 1,942	Min 998, Max 1,992
8 U.S.C. 1324a(g)(2)	IRCA; Violation/prohibition of indemnity bonds (per violation).	28 CFR 68.52(c)(7)	2,789	2,861
8 U.S.C. 1324b(g)(2)(B)(iv)(I)	IRCA; Unfair immigration-related employment practices, first order (per individual discriminated against).	28 CFR 68.52(d)(1)(viii)	Min 575, Max 4,610	Min 590, Max 4,730
8 U.S.C. 1324b(g)(2)(B)(iv)(II)	IRCA; Unfair immigration-related employment practices, second order (per individual discriminated against).	28 CFR 68.52(d)(1)(ix)	Min 4,610, Max 11,524	Min 4,730, Max 11,823
8 U.S.C. 1324b(g)(2)(B)(iv)(III)	IRCA; Unfair immigration-related employment practices, subsequent order (per individual discriminated against).	28 CFR 68.52(d)(1)(x)	Min 6,913, Max 23,048	Min 7,093, Max 23,647
8 U.S.C. 1324b(g)(2)(B)(iv)(I V)	IRCA; Unfair immigration-related employment practices, unfair documentary practices (per individual discriminated against).	28 CFR 68.52(d)(1)(xii)	Min 230, Max 2,304	Min 236, Max 2,364
8 U.S.C. 1324c(d)(3)(A)	IRCA; Document fraud, first order—for violations described in U.S.C. 1324c(a)(1)–(4) (per document).	28 CFR 68.52(e)(1)(i)	Min 575, Max 4,610	Min 590, Max 4,730
8 U.S.C. 1324c(d)(3)(B)	IRCA; Document fraud, subsequent order—for violations described in U.S.C. 1324c(a)(1)–(4) (per document).	28 CFR 68.52(e)(1)(iii)	Min 4,610, Max 11,524	Min 4,730, Max 11,823
8 U.S.C. 1324c(d)(3)(A)	IRCA; Document fraud, first order—for violations described in U.S.C. 1324c(a)(5)–(6) (per document).	28 CFR 68.52(e)(1)(ii)	Min 487, Max 3,887	Min 500, Max 3,988
8 U.S.C. 1324c(d)(3)(B)	IRCA; Document fraud, subsequent order—for violations described in U.S.C. 1324c(a)(5)–(6) (per document).	28 CFR 68.52(e)(1)(iv)	Min 3,887, Max 9,718	Min 3,988, Max 9,970
FBI				
49 U.S.C. 30505(a)	National Motor Vehicle Title Identification System; Violation (per violation).	.....	2,058	2,111
Office of Justice Programs				
34 U.S.C. 10231(d)	Confidentiality of information; State and Local Criminal History Record Information Systems—Right to Privacy Violation.	28 CFR 20.25	35,574	36,498

¹ The figures set forth in this column represent the penalty as last adjusted by Department of Justice regulation on February 12, 2024.

² All figures set forth in this table are maximum penalties, unless otherwise indicated.

³ Section 3729(a)(1) of Title 31 provides that any person who violates this section is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, plus 3 times the amount of damages which the Government sustains because of the act of that person. 31 U.S.C. 3729(a)(1) (2015). Section 3729(a)(2) permits the court to reduce the damages under certain circumstances to not less than 2 times the amount of damages which the Government sustains because of the act of that person. Id. section 3729(a)(2). The adjustment made by this regulation is only applicable to the specific statutory penalty amounts stated in subsection (a)(1), which is only one component of the civil penalty imposed under section 3729(a)(1).

⁴ Section 8706(a)(1) of Title 41 provides that the Federal Government in a civil action may recover from a person that knowingly engages in conduct prohibited by section 8702 of Title 44 a civil penalty equal to twice the amount of each kickback involved in the violation and not more than \$10,000 for each occurrence of prohibited conduct. 41 U.S.C. 8706(a)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (a)(1)(B), which is only one component of the civil penalty imposed under section 8706.

⁵ Section 216(b) of Title 18 provides that the civil penalty should be no more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. 18 U.S.C. 216(b) (2015). Therefore, the adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (b), which is only one aspect of the possible civil penalty imposed under section 216(b).

⁶ Section 2105(b) of Title 41 provides that the Attorney General may bring a civil action in an appropriate district court of the United States against a person that engages in conduct that violates section 2102, 2103, or 2104 of Title 41. 41 U.S.C. 2105(b) (2015). Section 2105(b) further provides that on proof of that conduct by a preponderance of the evidence, an individual is liable to the Federal Government for a civil penalty of not more than \$50,000 for each violation plus twice the amount of compensation that the individual received or offered for the prohibited conduct, and an organization is liable to the Federal Government for a civil penalty of not more than \$500,000 for each violation plus twice the amount of compensation that the organization received or offered for the prohibited conduct. Id. section 2105(b). The adjustments made by this regulation are only applicable to the specific statutory penalty amounts stated in subsections (b)(1) and (b)(2), which are each only one component of the civil penalties imposed under sections 2105(b)(1) and (b)(2).

⁷ The Attorney General has authority to bring a civil action when a person has violated or is about to violate a provision under this statute. 42 U.S.C. 5157(b) (2015). The Federal Emergency Management Agency has promulgated regulations regarding this statute and has adjusted the penalty in its regulation. 44 CFR 206.14(d) (2015). The Department of Health and Human Services (HHS) has also promulgated a regulation regarding the penalty under this statute. 42 CFR 38.8 (2015).

⁸ Section 1956(b)(1) of Title 18 provides that whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or section 1957, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of the value of the property, funds, or monetary instruments involved in the transaction; or \$10,000. 18 U.S.C. 1956(b)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (b)(1)(B), which is only one aspect of the possible civil penalty imposed under section 1956(b).

⁹ Section 842(c)(2)(C) of Title 21 provides that in addition to the penalties set forth elsewhere in the subchapter or subchapter II of the chapter, any business that violates paragraph (11) of subsection (a) of the section shall, with respect to the first such violation, be subject to a civil penalty of not more than \$250,000, but shall not be subject to criminal penalties under the section, and shall, for any succeeding violation, be subject to a civil fine of not more than \$250,000 or double the last previously imposed penalty, whichever is greater. 21 U.S.C. 842(c)(2)(C) (2015). The adjustment made by this regulation regarding the penalty for a succeeding violation is only applicable to the specific statutory penalty amount stated in subsection (c)(2)(C), which is only one aspect of the possible civil penalty for a succeeding violation imposed under section 842(c)(2)(C).

¹⁰ Section 856(d)(1) of Title 21 provides that any person who violates subsection (a) of the section shall be subject to a civil penalty of not more than the greater of \$250,000; or 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person. 21 U.S.C. 856(d)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (d)(1)(A), which is only one aspect of the possible civil penalty imposed under section 856(d)(1).

¹¹ The SUPPORT for Patients and Communities Act, Public Law 115–221 was enacted Oct. 24, 2018.

Dated: June 30, 2025.

Nicholas Schilling Jr.,
Supervisory Official, Office of Legal Policy.

[FR Doc. 2025–12494 Filed 7–2–25; 8:45 am]

BILLING CODE 4410–BB–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 651

[Docket ID: USA–2025–HQ–0003]

RIN 0702–AB02

Environmental Analysis of Army Actions (AR 200–2)

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: Interim final rule.

SUMMARY: This interim final rule rescinds the Department of the Army regulations implementing the National Environmental Policy Act (NEPA), because the Council on Environmental Quality's (CEQ) NEPA regulations, which they were meant to supplement, have been rescinded, and because the DoD is promulgating Department-wide NEPA procedures that will guide the Army's NEPA process. In addition, this interim final rule requests comments on this action and related matters.

DATES: This interim final rule is effective July 3, 2025. Comments must be received on or before August 4, 2025.

ADDRESSES: You may submit comments, identified by docket number and/or Regulation Identifier Number (RIN) and title, by any of the following methods:

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

- *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <https://www.regulations.gov> as they are received and without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT:

David Guldenzopf, Ph.D., Director for Environmental Quality, Office of the Assistant Secretary of the Army for Installations, Energy and Environment, (571) 256–7822, david.b.guldenzopf.civ@army.mil.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public. We post all comments received before the close of the comment period on the following website as soon as possible after the comments have been received: <https://www.regulations.gov>. Follow the search instructions on that website to view public comments. DoD will not post on <https://www.regulations.gov> public comments that make threats to individuals or institutions, or that suggest the commenter will take actions to harm an individual.

Plain Language Summary: In accordance with 5 U.S.C. 553(b)(4), a plain language summary of this rule may be found at <https://www.regulations.gov>.

I. Background

Title 32 CFR part 651 provides guidance for implementing NEPA in the Army. It applies to the Department of the Army, including the Active Army, the Army Reserve, Joint Bases for which the Army is the lead component, the Army's acquisition process, functions of the Army National Guard involving Federal funding, and functions for which the Army is the DoD executive

agent. This part does not apply to civil works functions of the U.S. Army Corps of Engineers or to combat or combat-related activities in a combat or hostile-fire zone. Title 32 CFR part 651 was intended to be used as a “supplement[] . . . in conjunction with” the regulations of the Council on Environmental Quality (CEQ) at 40 CFR parts 1500 through 1508. 32 CFR 651.1(c).

However, the CEQ's regulations have been repealed, effective April 11. *See Removal of National Environmental Policy Act Implementing Regulations* (90 FR 10610; Feb. 25, 2025). This action was necessitated by and consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 20, 2025), in which President Trump rescinded President Carter's E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make rules to begin with. The Army's regulations, which were a “supplement[] . . . to be used in conjunction with” those CEQ regulations, thus stand in obvious need of fundamental revision. President Trump in E.O. 14154 further directed agencies to revise their NEPA implementing procedures, consistent with the E.O., including its direction to CEQ to rescind its regulations.

In addition, Congress recently amended NEPA in significant part, in the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, signed on June 3, 2023, in which Congress added substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ and individual acting agencies had previously addressed in their own procedures. The Army recognized the need to update its regulations in light of these significant legislative changes. Since the Army's regulations were originally designed as a supplement to CEQ's NEPA regulations, the Army had

been awaiting CEQ action before revising its regulations, consistent with CEQ direction. *See* 40 CFR 1507.3(b) (2024); *see also* 86 FR 34154 (June 29, 2021). However, with CEQ's regulations now rescinded, and with the Army's NEPA implementing procedures still unmodified more than two years after this significant legislative overhaul, it is exigent that the Army move quickly to conform its procedures to the statute as amended.

Finally, the Supreme Court on May 29, 2025 issued a landmark decision, *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), in which it decried the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” “agency decisionmaking.” *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency conclusions underlying its NEPA process. *Id.* at 1513–14. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” which, in light of judicial “micromanage[ment],” had been “tak[ing] ever more time [] prepar[ing] ever longer EISs for future projects.” *Id.* at 1513. The Army, thus, is issuing this IFR to align its actions with the Supreme Court's decision and streamline its process of ensuring reasonable NEPA decisions. This revision has thus been called for, authorized, and directed by all three branches of government at the highest possible levels.

DoD has elected to respond to these instructions by promulgating Department-wide NEPA procedures, *Department of Defense National Environmental Policy Act Implementing Procedures*, which will guide the Army's NEPA process henceforth. The Supreme Court could not have been clearer in *Seven County* that NEPA is a procedural statute. *See* 145 S. Ct. at 1507 (“NEPA is a purely procedural statute.”); *see also id.* at 1510 (“NEPA is purely procedural. . . . NEPA does not mandate particular results, but simply prescribes the necessary process’ for an agency’s environmental review of a project;”) (internal quotation omitted); *id.* at 1511 (NEPA is a *purely procedural statute*); *id.* at 1513 (NEPA is properly understood as “a modest procedural requirement”); *id.* at 1514 (“NEPA’s status as a purely procedural statute”);

see also id. at 1507 (“Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.”). Mindful of this, DoD has decided that the flexibility to respond to new developments in this fast-evolving area of law, afforded by using non-codified procedures, outweighs the public-transparency virtues of codifying its regulations going forward. Notably, DoD can—and will—ensure that accessibility to the public by posting these procedures online, which removes the upside of codification. By contrast, not codifying its procedures will enable it to rapidly update these procedures in response to future court decisions (such as *Seven County*), Presidential directives, or the needs of the services. The use of non-codified procedures is, moreover, consistent with the approach that several other Federal agencies have used for decades.

DoD has, correspondingly, directed all military departments to repeal their respective NEPA implementing regulations by June 30, 2025, per a May 21, 2025, memorandum. Thus, the Army is rescinding its NEPA implementing regulations at 32 CFR part 651. The Army is furthermore taking this action because the CEQ NEPA regulations, which the Army regulations were intended to supplement, have been rescinded and the Army regulations are incomplete on their own. The authority under which the CEQ regulations were promulgated, Executive Order (E.O.) 11991 (42 FR 26967, May 24, 1977), has been rescinded by E.O. 14154 (90 FR 8353, Jan. 29, 2025). Therefore, the Army is rescinding 32 CFR part 651 to conform to CEQ's rescission of its regulations. The Army intends to continue to rely on categorical exclusions previously published in appendix B of 32 CFR part 651 or adopted by public notice in the **Federal Register**, all of which have now been incorporated into the Appendix to *Department of Defense National Environmental Policy Act Implementing Procedures*.

The Army acknowledges that third parties may claim to have reliance interests in the Army's existing NEPA procedures. But revised agency procedures will have no effect on ongoing NEPA reviews, where the Army, following CEQ guidance, has held it will continue to apply existing applications. Moreover, as the Supreme Court has just explained, NEPA “is a purely procedural statute” that “imposes no substantive environmental obligations or restrictions.” *Seven County*, 145 S. Ct. at 1507. Any asserted reliance interests grounded in substantive environmental concerns, such interests are not in accord with the

best meaning of the law and are entitled to “no. . . weight.” *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1914 (2020).

Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in *prospective* procedures. To the extent such interests exist, the Army concludes that they are “outweigh[ed]” by “other interests and policy concerns.” *Id.* Namely, the complex web of regulations preexisted the 2023 amendments to NEPA and the new Procedures repeatedly “led to more agency analysis of separate projects, more consideration of attenuated effects, more exploration of alternatives to proposed agency action, more speculation and consultation and estimation and litigation,” which in turn has meant that “[f]ewer projects make it to the finish line,” or even “to the starting line.” *Seven County*, 145 S. Ct. at 1513–14. This has increased the cost of projects dramatically, “both for the agency preparing the EIS and for the builder of the project,” resulting in systemic harms to America's infrastructure and economy. *Id.* at 1514. Correspondingly, the wholesale revision and simplification of this regime, effectuated by the DoD's new Procedures, is necessary to assure ensure efficient and predictable reviews, with significant upsides for the economy and for projects of all sorts. This set of policy considerations drastically outweighs any claimed reliance interests in the preexisting procedures.

The Army has taken this action as part of DoD's broader approach to revising its implementation of NEPA, in which DoD and its components have revised their NEPA implementing procedures to conform to the 2023 statutory amendments, to respond to President Trump's direction in E.O. 14154 to, “[c]onsistent with applicable law, prioritize efficiency and certainty over any other objectives, including those of activist groups, that do not align with the policy goals set forth in section 2 of [that] order or that could otherwise add delays and ambiguity to the permitting process,” and to address the pathologies of the NEPA process and NEPA litigation as identified by the Supreme Court. Where DoD and its components have retained an aspect of their preexisting NEPA implementing procedures, it is because that aspect is compatible with these guiding principles; where DoD and its components have revised or removed an aspect, it is because that aspect is not so compatible.

II. Publication as an Interim Final Rule

A. Notice-and-Comment Rulemaking Is Not Required

The Army is repealing its prior procedures and practices for implementing NEPA, a “purely procedural statute” which “‘simply prescribes the necessary process’ for an agency’s environmental review of a project—a review that is, even in its most rigorous form, ‘only one input into an agency’s decision and does not itself require any particular substantive outcome.’” *Seven County*, 145 S. Ct. at 1507, 1511 (internal quotation omitted). “NEPA imposes no *substantive* constraints on the agency’s ultimate decision to build, fund, or approve a proposed project,” and “is relevant only to the question of whether an agency’s final decision”—*i.e.*, that decision to authorize, fund, or otherwise carry out a particular proposed project or activity—“was reasonably explained.” *Id.* at 1511. As such, notice and comment procedures are not required because this revision falls within the Administrative Procedure Act (APA) exception for “rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A). The Army’s existing regulations do not dictate what outcomes such consideration must produce, nor do they impose binding legal obligations on private citizens. Rather, they prescribe how the Army will conduct its NEPA reviews: detailing the structure of environmental impact statements, specifying submission requirements, and directing the timing of public comment periods. These are procedural provisions, not ones that impose substantive environmental obligations or restrictions. Thus, because procedural rules do not require notice and comment, they do not require notice and comment to be removed from the Code of Federal Regulations. *See* 5 U.S.C. 553(b)(A).¹

¹ Just so, DoD’s new procedures will also be purely procedural, guiding the Department’s own compliance with NEPA. Indeed, it is hard to see how they could be otherwise, since the Supreme Court has recently repeatedly emphasized that “NEPA is a purely procedural statute.” *Seven County*, 145 S. Ct., *see id.* at 1510 (“NEPA is purely procedural. . . . NEPA ‘does not mandate particular results, but simply prescribes the necessary process’ for an agency’s environmental review of a project.”); *id.* at 1511 (NEPA is a *purely procedural statute*”); *id.* at 1513 (NEPA is properly understood as “a modest procedural requirement”); *id.* at 1514 (“NEPA’s status as a purely procedural statute”); *see also id.* at 1507 (“Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.”). Procedures for implementing a purely procedural statute must be, by their nature, procedural rules. Surely cannot be legislative rules; as such, they do not need to be promulgated via

Moreover, even if (and to the extent that) the Army regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy under 5 U.S.C. 553(b)(A). An interpretative rule provides an interpretation of a statute, rather than making discretionary policy choices that establish enforceable rights or obligations for regulated parties under delegated congressional authority. Part II of Appendix F to Part 651, for instance, may be classified as such. General statements of policy provide notice of an agency’s intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. 32 CFR 651.5 (“Army policies”), for instance, may be classified as general statements of policy. Both of these types of agency action are expressly exempted from notice and comment by statute, 5 U.S.C. 553(b)(A), and do not require notice and comment for removal.

Accordingly, although the Army is voluntarily providing notice and an opportunity to comment on this interim final rule, the agency has determined that notice-and-comment procedures are not required. The fact that the Army previously undertook notice-and-comment rulemaking in promulgating these regulations is immaterial: As the Supreme Court has held, where notice-and-comment procedures are not required, prior use of them in promulgating a rule does not bind the agency to use such procedures in repealing it. *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 101 (2015).

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

Moreover, the Army also finds that, to the extent that prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the need to expeditiously replace its existing rules satisfies the “good cause” exceptions in 5 U.S.C. 553(b)(B) and (d). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is “‘impracticable, unnecessary, or contrary to the public interest,’” 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). As discussed in Section I, above, the Army’s prior rules were promulgated to supplement CEQ’s NEPA regulations. Following the

notice-and-comment rulemaking. *See* 5 U.S.C. 553(b)(A).

rescission of CEQ’s regulations, the Army’s current rules are left hanging in air, supplementing a NEPA regime that no longer exists. The Army, thus far and as a temporary, emergency measure, has been continuing to operate under its prior procedures *as if* the CEQ NEPA regime still existed. This is not, however, tenable in the long term. As soon as proper procedures are available—which they now are, in the form of DoD’s Department-wide procedures—this makeshift regime needs to be rescinded immediately. Because of this need for speed and certainty, notice-and-comment is, to the extent it was required at all, impracticable and contrary to the public interest.

For the same reasons stated in the present section, above, the Army finds that “good cause” exists under 5 U.S.C. 553(d)(3) to waive the 30-day delay of the effective date that would otherwise be required. This IFR will accordingly be effective immediately.

C. The Army Solicits Comment

As explained above, notice and comment is not required prior to issuing this rule because the Army’s NEPA procedures were procedural and because, even if comment were required under the APA, good cause exists to forego it. Nevertheless, the Army has elected voluntarily to solicit comment on this action. The Army is soliciting comment on this interim final rule, and may make further revisions to this action, if the Army’s review of any comments submitted suggests that further revisions are warranted. Commenters have 30 days from the date of publication of this interim final rule to submit comments.

III. E.O. 12866, “Regulatory Planning and Review,” and E.O. 13563, “Improving Regulation and Regulatory Review”

EOs 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distribution of impacts, and equity). The Office of Management and Budget’s (OMB’s) Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking, while not “economically significant,” is “significant” under section 3(f)(4) of E.O. 12866.

IV. E.O. 14192, “Unleashing Prosperity Through Deregulation”

E.O. 14192 was issued on January 31, 2025, and requires that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This rule is expected to be an E.O. 14192 deregulatory action. Rescinding this part will enable the Army to update its internal Army procedures, ensuring consistent and streamlined implementation of NEPA responsibilities across all Army operations. This action will allow the Army to finalize the establishment of previously-proposed and publicly-reviewed categorical exclusions (CXs) that will reduce government spending on environmental compliance and will shorten project timelines for those activities that do not need a detailed analysis. The Army currently prepares approximately 10,000 CXs annually. The Army expects the new and revised CXs to increase use of CXs and to shorten project-approval timelines. Application of each new and revised CX will reduce the need to complete environmental assessments. Each environmental assessment costs approximately \$500,000 and takes six months to one year to complete. The new and revised CX list will greatly reduce government spending on environmental site assessments.

V. Congressional Review Act (5 U.S.C. 801 et seq.)

OIRA has determined that this rulemaking does not meet the criteria set forth in 5 U.S.C. 804(2) under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act). This action, in any event, is not a “rule” at all under 5 U.S.C. 804(3)(C). Therefore, this rule is not major under the Congressional Review Act.

VI. Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This interim final rule does not contain any information-collection provisions that require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

VII. Public Law 96–354, Regulatory Flexibility Act (5 U.S.C. 601)

The Senior Official Performing the Duties of Under Secretary of the Army certified that this interim final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it will not have a significant economic impact on a substantial number of small entities.

Therefore, the Regulatory Flexibility Act, as amended, does not require the Army to prepare a regulatory flexibility analysis. *See* 5 U.S.C. 603(a), 604(a).

VIII. Sec. 202, Public Law 104–4, Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule that mandates spending in any one year of \$100 million in 1995 dollars, updated annually for inflation. This rulemaking will not result in an expenditure by State, local, or Tribal Governments, in the aggregate, or by the private sector, in excess of the above threshold. Thus, no written assessment of unfunded mandates is required.

IX. E.O. 13132, “Federalism”

This interim final rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, the Senior Official Performing the Duties of Under Secretary of the Army has determined that this rulemaking does not have sufficient federalism implications to warrant preparation of a federalism assessment.

X. E.O. 13175, “Consultation and Coordination With Indian Tribal Governments”

E.O. 13175 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on one or more Indian Tribes, preempts Tribal law, or affects the distribution of power and responsibilities between the Federal Government and Indian Tribes. This interim final rule will not have a substantial effect on Indian Tribal Governments.

List of Subjects in 32 CFR Part 651

Environmental impact statements, Environmental protection, and Foreign relations.

PART 651—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 651 is removed.

James W. Satterwhite Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2025–12318 Filed 7–1–25; 2:30 pm]

BILLING CODE 3711–CC–P

DEPARTMENT OF DEFENSE**Department of the Navy****32 CFR Part 775**

[Docket ID: USN–2025–HQ–0004]

RIN 0703–AB31

Recission of Procedures for Implementing the National Environmental Policy Act (NEPA)

AGENCY: Department of the Navy (DON), Department of Defense (DoD).

ACTION: Interim final rule.

SUMMARY: This interim final rule rescinds DON’s regulations implementing the National Environmental Policy Act (NEPA), because the Council on Environmental Quality’s (CEQ) NEPA regulations, which they were meant to supplement, have been rescinded, and because the DoD is promulgating Department-wide NEPA procedures that will guide the Navy’s NEPA process. In addition, this interim final rule requests comments on this action.

DATES: This interim final rule is effective on July 3, 2025. Comments must be received on or before August 4, 2025.

ADDRESSES: You may submit comments, identified by docket number and/or Regulation Identifier Number (RIN) number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Assistant to the Secretary Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Farak, Office of the Deputy Assistant Secretary of the Navy (Environment and Mission Readiness), 703–695–4216.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of

the comment period are available for viewing by the public. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that website to view public comments. DON will not post on <http://www.regulations.gov> public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

Plain Language Summary: In accordance with 5 U.S.C. 553(b)(4), a plain language summary of this rule may be found at <https://www.regulations.gov/>.

I. Background

Title 32 CFR part 775 provides guidance for implementing the procedural provisions of NEPA for the DON. The regulation is applicable to the DON, including the Office of the Secretary of the Navy, and Navy and Marine Corps commands, operating forces, shore establishments, and reserve components. The purpose of 32 CFR part 775 was to implement the provisions of NEPA (42 U.S.C. 4321 *et seq.*), the CEQ's NEPA implementing regulations (formerly codified at 40 CFR parts 1500–1508), and Department of Defense Instruction (DoDI) on Environmental Planning and Analysis (DoDI 4715.9). *See* 32 CFR 775.1(a). However, the CEQ's regulations have been repealed, effective April 11. *See Removal of National Environmental Policy Act Implementing Regulations*, (90 FR 10610; Feb. 25, 2025). This action was necessitated by and is consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 20, 2025), in which President Trump rescinded President Carter's E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977) which was the basis CEQ had invoked for its authority to make rules to begin with. DON's regulations, which were designed to implement those CEQ regulations, thus stand in obvious need of fundamental revision. President Trump in E.O. 14154 further directed agencies to revise their NEPA implementing procedures, consistent with the E.O., including its direction to CEQ to rescind its regulations.

In addition, Congress recently amended NEPA in significant part, in the Fiscal Responsibility Act of 2023,

Public Law 118–5, signed on June 3, 2023, in which Congress added substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ and individual acting agencies had previously addressed in their own procedures. The DON recognized the need to update its regulations in light of these significant legislative changes. Since the DON's regulations were originally designed as a supplement to CEQ's NEPA regulations, the DON had been awaiting CEQ action before revising its regulations, consistent with CEQ direction. *See* 40 CFR 1507.3(b) (2024); *see also* 86 FR 34154 (June 29, 2021). However, with CEQ's regulations now rescinded, and with the DON's NEPA implementing procedures still unmodified more than two years after this significant legislative overhaul, it is exigent that the DON move quickly to conform its procedures to the statute as amended.

Finally, the Supreme Court on May 29, 2025 issued a landmark decision, *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), in which it decried the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” “agency decisionmaking.” *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency conclusions underlying their NEPA processes. *Id.* at 1513–14. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” which, in light of judicial “micromanage[ment],” had been “tak[ing] ever more time and . . . prepar[ing] ever longer EISs for future projects.” *Id.* at 1513. The DON, thus, is issuing this interim final rule to align its actions with the Supreme Court's decision and streamline its process of ensuring reasonable NEPA decisions. This revision has thus been called for, authorized, and directed by all three branches of government at the highest possible levels. DoD has elected to respond to these instructions by promulgating Department-wide NEPA procedures, *Department of Defense National Environmental Policy Act Implementing Procedures*, which will guide the DON's NEPA process henceforth. The Supreme Court could not have been clearer in *Seven County*

that NEPA is a procedural statute. *See* 145 S. Ct. at 1507 (“NEPA is a purely procedural statute.”); *id.* at 1510 (“NEPA is purely procedural NEPA ‘does not mandate particular results, but simply prescribes the necessary process’ for an agency’s environmental review of a project.”); *id.* at 1511 (NEPA is a *purely procedural statute*”); *id.* at 1513 (NEPA is properly understood as “a modest procedural requirement”); *id.* at 1514 (“NEPA’ status as a purely procedural statute”); *see also id.* at 1507 (“Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.”). Mindful of this, DoD has decided that the flexibility to respond to new developments in this fast-evolving area of law, afforded by using non-codified procedures, outweighs the public-transparency virtues of codifying its regulations going forward. Notably, DoD can—and will—ensure that accessibility to the public by posting these procedures online, which removes the upside of codification. By contrast, not codifying its procedures will enable it to rapidly update these procedures in response to future court decisions (such as *Seven County*), Presidential directives, or the needs of the services. The use of non-codified procedures is, moreover, consistent with the approach that several other Federal agencies have used for decades.

DoD has, correspondingly, directed all military departments to repeal their respective NEPA implementing regulations by June 30, 2025, per a May 21, 2025, memorandum. Thus, the DON is rescinding its NEPA implementing regulations at 32 CFR part 775. The DON is furthermore taking this action because the CEQ NEPA regulations, which the DON regulations were intended to supplement and implement, were rescinded and thus the DON's regulations are incomplete on their own. Therefore, the DON is rescinding 32 CFR part 775. Concurrent with this action, DoD plans to issue separate DoD-wide NEPA procedures, which will apply to DON. Those DoD-wide NEPA procedures will include the list of categorical exclusions that are currently listed in 32 CFR 775.6(f), which will continue to be used by DON in its implementation of NEPA.

The DON acknowledges that third parties may claim to have reliance interests in the DON's existing NEPA procedures. But revised agency procedures will have no effect on ongoing NEPA reviews, where the DON, following CEQ guidance, has held it will continue to apply existing applications. Moreover, as the Supreme Court has just explained, NEPA “is a purely procedural statute” that “imposes no

substantive environmental obligations or restrictions.” *Seven County*, 145 S. Ct. at 1507. Any asserted reliance interests grounded in substantive environmental concerns are not in accord with the best meaning of the law and are entitled to “no . . . weight.” *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1914 (2020).

Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in *prospective* procedures. To the extent such interests exist, the DON concludes that they are “outweigh[ed]” by “other interests and policy concerns.” *Id.* Namely, the complex web of regulations that preexisted the 2023 amendments to NEPA and the new Procedures repeatedly “led to more agency analysis of separate projects, more consideration of attenuated effects, more exploration of alternatives to proposed agency action, more speculation and consultation and estimation and litigation,” which in turn has meant that “[f]ewer projects make it to the finish line,” or even “to the starting line.” *Seven County*, 145 S. Ct. at 1513–14. This has increased the cost of projects dramatically, “both for the agency preparing the EIS and for the builder of the project,” resulting in systemic harms to America’s infrastructure and economy. *Id.* at 1514. Correspondingly, the wholesale revision and simplification of this regime, effectuated by the DoD’s new NEPA procedures, is necessary to ensure efficient and predictable reviews, with significant upsides for the economy and for projects of all sorts. This set of policy considerations drastically outweighs any claimed reliance interests in the preexisting procedures.

The DON has taken this action as part of DoD’s broader approach to revising its implementation of NEPA, in which DoD and its components have revised their NEPA implementing procedures to conform to the 2023 statutory amendments, to respond to President Trump’s direction in E.O. 14154 to, “[c]onsistent with applicable law, prioritize efficiency and certainty over any other objectives, including those of activist groups, that do not align with the policy goals set forth in section 2 of [that] order or that could otherwise add delays and ambiguity to the permitting process,” and to address the pathologies of the NEPA process and NEPA litigation as identified by the Supreme Court. Where DoD and its components have retained an aspect of their preexisting NEPA implementing procedures, it is because that aspect is

compatible with these guiding principles; where DoD and its components have revised or removed an aspect, it is because that aspect is not so compatible.

II. Publication as an Interim Final Rule

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These are procedural provisions, not ones that impose substantive environmental obligations or restrictions. Thus, because procedural rules do not require notice and comment, they do not require notice and comment to be removed from the Code of Federal Regulations. *See* 5 U.S.C. 553(b)(A).¹

¹ Just so, DoD’s new procedures will also be purely procedural, guiding the Department’s own compliance with NEPA. Indeed, it is hard to see

Moreover, even if (and to the extent that) DON’s regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy under 5 U.S.C. 553(b)(A). An interpretative rule provides an interpretation of a statute, rather than making discretionary policy choices that establish enforceable rights or obligations for regulated parties under delegated congressional authority. 32 CFR 775.2 (“Definitions”), for instance, may be classified as such. General statements of policy provide notice of an agency’s intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. The prefatory sections DON’s procedures, for instance, such as 32 CFR 775.3 (“Policy”), may be classified as general statements of policy. Both of these types of agency action are expressly exempted from notice and comment by statute., 5 U.S.C. 553(b)(A), and do not require notice and comment for removal.

Accordingly, although DON is voluntarily providing notice and an opportunity to comment on this interim final rule, the agency has determined that notice-and-comment procedures are not required. The fact that DON previously undertook notice-and-comment rulemaking in promulgating these regulations is immaterial: As the Supreme Court has held, where notice-and-comment procedures are not required, prior use of them in promulgating a rule does not bind the agency to use such procedures in repealing it. *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 101 (2015).

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

Moreover, the DON also finds that, to the extent that prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the

how they could be otherwise, since the Supreme Court has recently repeatedly emphasized that “NEPA is a purely procedural statute.” *Seven County*, 145 S. Ct. at 1507; *see id.* at 1510 (“NEPA is purely procedural . . . NEPA ‘does not mandate particular results, but simply prescribes the necessary process’ for an agency’s environmental review of a project.”); *id.* at 1511 (“NEPA is a purely procedural statute.”); *id.* at 1513 (“NEPA is properly understood as ‘a modest procedural requirement’”); *id.* at 1514 (“NEPA’s status as a purely procedural statute.”); *see also id.* at 1507 (“Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.”). Procedures for implementing a purely procedural statute must be, by their nature, procedural rules. Surely cannot be legislative rules; as such, they do not need to be promulgated via notice-and-comment rulemaking. *See* 5 U.S.C. 553(b)(A).

need to expeditiously replace its existing rules satisfies the “good cause” exceptions in 5 U.S.C. 553(b)(B) and (d). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is “impracticable, unnecessary, or contrary to the public interest,” 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). As discussed in Section I, above, DON’s prior rules were promulgated to supplement CEQ’s NEPA regulations. Following the rescission of CEQ’s regulations, the DON’s current rules are left hanging in air, supplementing a NEPA regime that no longer exists. The DON, thus far and as a temporary, emergency measure, has been continuing to operate under its prior procedures *as if* the CEQ NEPA regime still existed. This is not, however, tenable in the long term. As soon as proper procedures are available—which they now are, in the form of DoD’s Department-wide procedures—this makeshift regime needs to be rescinded immediately. Because of this need for speed and certainty, notice-and-comment is, to the extent it was required at all, impracticable and contrary to the public interest.

For the same reasons stated in the present section, above, DON finds that “good cause” exists under 5 U.S.C. 553(d)(3) to waive the 30-day delay of the effective date that would otherwise be required. This interim final rule will accordingly be effective immediately.

C. DON Solicits Comment

As explained above, notice and comment is not required prior to issuing this rule because DON’s NEPA procedures were procedural and because, even if comment were required under the APA, good cause exists to forego it. Nevertheless, DON has elected voluntarily to solicit comment on this action. DON is soliciting comment on this interim final rule, and may make further revisions to this action, if DON’s review of any comments submitted suggests that further revisions are warranted. Commenters have 30 days from the date of publication of this interim final rule to submit comments.

IV. Regulatory Compliance Analysis

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

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if

regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distribution of impacts; and equity). The Office of Management and Budget’s (OMB) Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is significant under section 3(f) of E.O. 12866.

B. E.O. 14192, “Unleashing Prosperity Through Deregulation”

E.O. 14192 was issued on January 31, 2025, and requires that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This rule is expected to be an E.O. 14192 deregulatory action.

C. Congressional Review Act (5 U.S.C. 801 et seq.)

OIRA has determined that this rulemaking does not meet the criteria set forth in 5 U.S.C. 804(2) under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act). This action, in any event, is not a rule at all under 5 U.S.C. 804(3)(C).

D. Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

The rule does not contain any information collection requirements that require the approval of the OMB under the Paperwork Reduction Act (44 U.S.C. chapter 35).

E. Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601)

The Secretary of the Navy certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it will not have a significant economic impact on a substantial number of small entities. Also, the rule repeals the DON’s NEPA implementing regulations at 32 CFR part 775, which are procedural, outlining procedures for environmental impact analysis for all DON activities and programs. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis. *See* 5 U.S.C. 603(a) and 604(a).

F. Sec. 202, Public Law 104–4, “Unfunded Mandates Reform Act”

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100

million in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

G. E.O. 13132, “Federalism”

The DON has determined that this action does not contain policies with federalism or “takings” implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively. This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of Government. This action contains no Federal mandates for State and local Governments and does not impose any enforceable duties on State and local Governments. This action addresses only internal DON procedures for implementing NEPA.

H. E.O. 13175, “Consultation and Coordination With Indian Tribal Governments”

E.O. 13175 establishes certain requirements that an agency must meet when it promulgates an interim final rule (and subsequent final rule) that imposes substantial direct compliance costs on one or more Indian Tribes, preempts Tribal law, or effects the distribution of power and responsibilities between the Federal Government and Indian Tribes. This rule will not have a substantial effect on Indian Tribal Governments.

List of Subjects in 32 CFR Part 775

Administrative practice and procedure, Environmental impact statements, Environmental protection, National Defense, Natural resources.

32 CFR Chapter VI

PART 775—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 775 is removed.

Dated: June 27, 2025.

A.R. DeMaio,

Lieutenant Commander, Judge Advocate General’s Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2025–12305 Filed 7–1–25; 2:30 pm]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165****[Docket No. USCG–2025–0582]****Safety Zone; Lakeshore State Park, Milwaukee, WI****AGENCY:** Coast Guard, DHS.**ACTION:** Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Safety Zone, Lakeshore State Park, Milwaukee, WI on a portion of Lake Michigan in Milwaukee, WI. This action is intended to protect personnel, vessels, and the marine environment from potential hazards created by a drone display. During the enforcement period listed below, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for the Lakeshore State Park regulated area listed in item 2 in Table 4 to § 165.929 from 8:45 p.m. to 9:30 p.m. on July 4, 2025.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Chief Petty Officer Aaron Sunstrom, Sector Lake Michigan Waterways Management Division, U.S. Coast Guard; telephone 206–820–1927, email: *D09-SMB-SECLAKEMICHIGAN-WWM@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone regulation in 33 CFR 165.929 for the Lakeshore State Park fireworks event in item 2 in Table 4 to § 165.929 from 8:45 p.m. to 9:30 p.m. on Friday July 4, 2025. The regulation for recurring marine events within the State of Wisconsin in item 2 in Table 4 to § 165.929, specifies the location of the regulated area for this event. All vessels must obtain permission from the Captain of the Port (COTP) Lake Michigan, or designated on-scene representative to enter, move within, or exit this safety zone during the enforcement time listed in this notice of enforcement. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the COTP Lake Michigan or designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel must proceed as directed.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via Broadcast Notice to Mariners. The COTP Lake Michigan may be reached by contacting the Coast Guard Sector Lake Michigan Command Center at (414) 747–7182. An on-scene designated representative may be reached via VHF–FM Channel 16.

Dated: June 30, 2025.

R.N. Macon,*Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.*

[FR Doc. 2025–12486 Filed 7–2–25; 8:45 am]

BILLING CODE 9110–04–P**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket Number USCG–2025–0577]****RIN 1625–AA00****Safety Zone; Francis Scott Key Bridge, Patapsco River, Baltimore, MD****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for certain waters of the Patapsco River, in Baltimore, MD. This action is necessary to provide for the safety of life on these navigable waters at the Francis Scott Key Bridge during demolition and construction operations. This rulemaking prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from July 7, 2025 through August 30, 2025.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2025–0577 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 on this rule, call or email LCDR Kate M. Newkirk, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *D05-DG-SectorMD-NCR-Prevention-WWM@uscg.mil*.

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

CFR Code of Federal Regulations

COTP Captain of the Port, Sector Maryland-National Capital Region

DHS Department of Homeland Security

FR **Federal Register**

MDTA Maryland Transportation Authority

NPRM Notice of proposed rulemaking

§ Section

U.S.C. United States Code

II. Background Information and Regulatory History

The Maryland Transportation Authority (MDTA) has notified the Coast Guard that it will be conducting demolition and construction activities on the Patapsco River at the site of the Francis Scott Key Bridge, which was hit by a container ship on March 26, 2024, see 89 FR 24385 (April 8, 2024). Debris removal and hydrographic surveying will be conducted on the Hawkins Point side of the remaining bridge segments. Marine equipment, including barges, positioned in the Patapsco River will be used to support bridge demolition and debris removal operations. This operation requires the use of a temporary commercial mooring buoy in the Patapsco River, in the vicinity of the old bridge. This operation will not prevent vessels from using the federal navigation channel.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to publish an NPRM without delaying promulgation of the final rule establishing this safety zone past July 7, 2025, when demolition operations will begin.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because the rule must be in effect by July 7, 2025 to respond to the potential safety hazards associated with demolition operations at the old Francis Scott Key (US–695) Bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port, Sector Maryland-National Capital Region (COTP) has determined that potential hazards associated with bridge demolition, which are scheduled to start July 7, 2025, will be a safety concern for anyone near the old Francis Scott Key Bridge (US-695) demolition site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being demolished.

IV. Discussion of the Rule

The COTP is establishing a safety zone from 12:01 a.m. on July 7, 2025, to 11:59 p.m. on August 30, 2025. The safety zone will cover the following area: all navigable waters of the Patapsco River, encompassed by a line connecting the following points beginning at 39°12.81' N, 076°32.08' W, thence northeast to 39°12.99' N, 076°31.90' W, thence southeast to 39°12.90' N, 076°31.77' W, thence southwest to 39°12.72' N, 076°31.95' W, and thence northwest along the shoreline back to the beginning point, located in the vicinity of Hawkins Point.

The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled demolition and debris removal. Except for marine equipment and vessels operated by MDTA or its subcontractors, no vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The term designated representative also includes a supervisor or contractor on site for the sole purposes of designating and establishing safe transit corridors, to permit passage into or through the safety zone, or to notify vessels and individuals that they have entered the safety zone and are required to leave.

In accordance with 33 CFR 165.7(a), the COTP will notify the public by all appropriate means that the safety zone will be enforced. Such means of notification will also include, but are not limited to, Broadcast Notice to Mariners. Vessels or persons violating this rule are subject to the penalties set forth in 46 U.S.C. 70036 and 46 U.S.C. 70052. 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, and we discuss First Amendment rights of protestors.

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 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 and time of year of the safety zone. The temporary safety zone is approximately 1000 feet in width and 1500 feet yards in length. This safety zone would impact a small, designated area of the Patapsco River for a total of 62 days, but we do not anticipate there will be any vessels that will be unable to conduct business as a result of the safety zone. Excursion vessels and commercial fishing vessels are not impacted by this rulemaking. Excursion vessels do not operate in this area, and commercial fishing vessels are not impacted because the waters in this area are too shallow to accommodate them. Some towing vessels may be impacted, but bridge project personnel have been conducting outreach throughout the project to coordinate with those vessels. Moreover, the Coast Guard would issue Local Notices to Mariners and a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

B. Impact on Small Entities

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would 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 will 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 proposed rule involves a safety zone lasting 32 total days that would prohibit entry within a portion of the Potomac River. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T05–0577 to read as follows:

§ 165.T05–0577 Safety Zone; Patapsco River, Francis Scott Key Bridge

(a) *Location.* The following area is a safety zone: All navigable waters of the Patapsco River, encompassed by a line connecting the following points beginning at 39°12.81' N, 076°32.08' W, thence northeast to 39°12.99' N, 076°31.90' W, thence southeast to 39°12.90' N, 076°31.77' W, thence southwest to 39°12.72' N, 076°31.95' W, and thence northwest along the shoreline back to the beginning point, located in the vicinity of Hawkins Point. These coordinates are based on datum NAD 83.

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

Captain of the Port (COTP) means the Commander, U.S. Coast Guard, Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Maryland-National Capital Region (COTP) in the enforcement of the safety zone. The term also includes an employee of the Maryland Transportation Authority (MDTA) for the sole purposes of designating and establishing safe transit corridors, to permit passage into or through the safety zone, or to notify vessels and individuals that they have entered the safety zone and are required to leave.

Marine equipment means any vessel, barge or other equipment operated by MDTA, or its subcontractors.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, except for marine equipment, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP, MDTA, or the COTP's designated representative. If a vessel or person is notified by the COTP, MDTA, or the COTP's designated representative that they have entered the safety zone without permission, they are required to immediately leave in a safe manner following the directions given.

(2) Mariners requesting to transit any of these safety zone areas must first contact the MDTA designated representative, the on-site project manager, via Marine Band Radio VHF–FM channels 16. If permission is granted, mariners proceed at their own risk and must strictly observe any and all instructions provided by the COTP, MDTA, or designated representative to the mariner regarding the conditions of entry to and exit from any area of the safety zone. The COTP or the COTP's representative can be contacted by telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz).

(3) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue marine information broadcasts on VHF–FM marine band radio announcing specific enforcement dates and times.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 12:01 a.m. on July 7, 2025, to 11:59 p.m. on August 30, 2025.

Dated: June 27, 2025.

Patrick C. Burkett,

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

[FR Doc. 2025–12459 Filed 7–2–25; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2025–0559]

RIN 1625–AA00

Safety Zone; Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Potomac River. The action is necessary to provide for the safety of life on these navigable waters near Fairview Beach, Virginia during a fireworks display on July 12, 2025. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port, Sector Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 9 p.m. on July 12, 2025, to 11 p.m. on July 13. It will only be enforced, however, from 9 p.m. to 11 p.m. on July 12 unless the fireworks display is cancelled due to inclement weather. If it is cancelled, it will only be enforced from 9 p.m. to 11 p.m. on July 13.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2025–0559 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 Kate M. Newkirk, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2596, email MDNCRMarineEvents@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule under the authority in 5 U.S.C. 553(b)(B). This statutory provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to provide notice, consider any comments received, and publish a final rule by July 12, 2025, when the rule must be in place to serve its intended purpose.

Also, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. To serve its intended purpose, the rule must be in effect in less than 30 days. It is therefore impracticable to delay the effective date.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port, Sector Maryland-National Capital Region (COTP) has determined that potential hazards associated with this fireworks display would be a safety concern for anyone within a 500-yard radius of the fireworks discharge site. Such hazards include premature detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the display is occurring.

IV. Discussion of the Rule

Tim’s II Rivershore Restaurant, of King George, Virginia, will sponsor a fireworks display launched from a barge located in the Potomac River, near Fairview Beach, Virginia, on Saturday, July 12, 2025, at approximately 10 p.m. If necessary, due to inclement weather, the display will be held on July 13, 2025. This rule establishes a temporary safety zone which will be enforced from 9 p.m. to 11 p.m. on July 12, 2025, or from 9 p.m. to 11 p.m. on July 13, 2025 (if the event is postponed due to inclement weather on July 12). The

duration of the safety zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 10 p.m.–10:30 p.m. fireworks display. This temporary safety zone will cover all navigable waters within a 500 ft radius of a barge in the Potomac River, approximately 700 ft from the shoreline at Fairview Beach, Virginia. The approximate position of the barge is latitude 38°19′56.69″ N, longitude 077°14′40.46″ W, (NAD 1983). No person or vessel will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Vessels will be allowed to transit the waters of the Potomac River outside the safety zone.

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 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which will impact a small, designated area of the Potomac River or less than 3 hours during the evening, when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 to notify mariners about enforcement of the safety zone.

B. Impact on Small Entities

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

Regulatory Flexibility Act’s flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), 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 will 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 safety zone lasting only 3 hours that will prohibit entry within 500 yards of the fireworks discharge site. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T05–0559 to read as follows:

§ 165.T05–0559 Safety Zone; Fireworks Display, Potomac River, Charles County, MD.

(a) *Location.* The following area is a safety zone: All waters in the Potomac River, within a 500 foot radius of a fireworks discharge barge in approximate positions latitude

38°19'56.69" N, longitude 077°14'40.46" W, located approximately 700 feet from the shoreline at Fairview Beach, Virginia (NAD 1983).

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

Captain of the Port, Sector Maryland National Capital Region means the Commander, Coast Guard Sector Maryland National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Sector Maryland National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

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

(2) To seek permission to enter, contact the COTP Maryland-National Capital Region at telephone number 410–576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz), or the Event PATCOM on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement.* The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement period.* This section will be enforced from 9 p.m. through 11 p.m. on July 12, 2025, or, if necessary due to inclement weather, from 9 p.m. through 11 p.m. on July 13, 2025.

Dated: June 27, 2025.

Patrick C. Burkett,

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

[FR Doc. 2025–12467 Filed 7–2–25; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 230

[Docket ID: COE–2025–0007]

RIN 0710–AB28

Procedures for Implementing NEPA; Removal

AGENCY: Army Corps of Engineers, Department of Defense (DoD).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule rescinds the U.S. Army Corps of Engineers' (Corps) regulations implementing the National Environmental Policy Act (NEPA) for the Army Civil Works program, except for the Categorical Exclusions contained therein, because the Council on Environmental Quality's (CEQ) NEPA regulations, which the Corps' regulations were meant to supplement, have been removed from the Code of Federal Regulations (CFR) and because the DoD is promulgating Department-wide NEPA procedures that will guide the Army Civil Works' NEPA process. In addition, this interim final rule requests comments on this action.

DATES: This interim final rule is effective July 3, 2025. Comments must be received on or before August 4, 2025.

ADDRESSES: You may submit comments, identified by docket number COE–2025–0007 and/or 0710–AB28, by any of the following methods:

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

Email: CEHQ-NEPA@usace.army.mil. Include the docket number, COE–2025–0007, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW, 441 G Street NW, Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: If submitting comments through the Federal eRulemaking Portal, direct your comments to docket number COE–2025–0007. All comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose

disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through [regulations.gov](https://www.regulations.gov) or email. The [regulations.gov](https://www.regulations.gov) website is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through [regulations.gov](https://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment. If we cannot read your comment because of technical difficulties and cannot contact you for clarification we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Mr. Milt Boyd, 703-459-6026.

SUPPLEMENTARY INFORMATION:

I. Background

A. Title 33 CFR part 230 provides guidance for implementing the procedural provisions of NEPA for the Army Civil Works Program. It “supplements” the CEQ regulations at 40 CFR parts 1500 through 1508 and is intended to be used only in conjunction with the CEQ regulations. See 33 CFR 230.1. The regulation is applicable to all Corps Headquarters elements and all Field Operating Activities responsible for preparing and processing environmental documents in support of Civil Works functions, except for the processing of permit applications. See 33 CFR 230.2. Section 230.9 provides a list of categorical exclusions (CXs) in current use by the Corps for Civil Works projects and for processing requests for 33 U.S.C. 408 permissions. The regulations at part 230 are not used for processing Department of the Army permits, which are addressed at 33 CFR part 325, appendix B and will be updated in another rule.

The CEQ regulations, however, have been repealed, effective April 11. See *Removal of National Environmental Policy Act Implementing Regulations* (90 FR 10610; Feb. 25, 2025). This action was necessitated by and consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 20, 2025), in which President Trump rescinded President

Carter’s E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make rules to begin with. The Corps’ regulations, which were a “supplement[]” to those CEQ regulations, thus stand in obvious need of fundamental revision. President Trump in E.O. 14154 further directed agencies to revise their NEPA implementing procedures consistent with the E.O., including its direction to CEQ to rescind its regulations.

In addition, Congress recently amended NEPA in significant part, in the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, signed on June 3, 2023, in which Congress added substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ and individual acting agencies had previously addressed in their own procedures. The Corps recognized the need to update its regulations in light of these significant legislative changes. Since the Corps’ regulations were originally designed as a supplement to CEQ’s NEPA regulations, the Corps had been awaiting CEQ action before revising its regulations, consistent with CEQ direction. See 40 CFR 1507.3(b) (2024); see also 86 FR 34154 (June 29, 2021). However, with CEQ’s regulations now rescinded, and with the Corps’ NEPA implementing procedures still unmodified more than two years after this significant legislative overhaul, it is exigent that the Corps move quickly to conform its procedures to the statute as amended.

Finally, the Supreme Court on May 29, 2025 issued a landmark decision, *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), in which it decried the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” “agency decisionmaking.” *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency conclusions underlying its NEPA process. *Id.* at 1513–14. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” which, in light of judicial “micromanage[ment],” had been “tak[ing] ever more time and [] prepar[ing] ever longer EISs for future

projects.” *Id.* at 1513. The Army, thus, is issuing this interim final rule (IFR) as part of its and DoD’s effort to align its actions with the Supreme Court’s decision and streamline its process of ensuring reasonable NEPA decisions. This revision has thus been called for, authorized, and directed by all three branches of government at the highest possible levels.

The DoD has elected to respond to these instructions by promulgating Department-wide NEPA procedures, *Department of Defense National Environmental Policy Act Implementing Procedures*, which will guide the NEPA process henceforth for the Corps’ civil works program, while the Corps’ permitting programs and the 33 U.S.C. 408 request for permission program will remain subject to Corps-level procedures that will be updated in a separate action. The Supreme Court could not have been clearer in *Seven County* that NEPA is a procedural statute. See 145 S. Ct. at 1507 (“NEPA is a purely procedural statute.”); see *id.* at 1510 (“NEPA is purely procedural. . . . NEPA does not mandate particular results, but simply prescribes the necessary process’ for an agency’s environmental review of a project;”) (internal quotation omitted); *id.* at 1511 (NEPA is a *purely procedural statute*); *id.* at 1514 (NEPA is properly understood as “a modest procedural requirement”); *id.* (“NEPA’s status as a purely procedural statute”); see also *id.* at 1507 (“Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.”). Mindful of this, DoD has decided that the flexibility to respond to new developments in this fast-evolving area of law, afforded by using non-codified procedures, outweighs the public-transparency virtues of codifying its regulations going forward. Notably, DoD can—and will—ensure that accessibility to the public by posting these procedures online, which removes the upside of codification. By contrast, not codifying its procedures will enable it to rapidly update these procedures in response to future court decisions (such as *Seven County*), Presidential directives, or the needs of the services. The use of non-codified procedures is, moreover, consistent with the approach that several other Federal agencies have used for decades.

DoD has, correspondingly, directed all military departments to repeal their respective NEPA implementing regulations by June 30, 2025, per a May 21, 2025, memorandum. Thus, the Army is rescinding its NEPA implementing regulations for Army Civil Works at 33 CFR part 230, except §§ 230.2 and 230.9. The Army is also rescinding

Engineering Regulation 200–2–2, Procedures for Implementing NEPA (Mar. 4, 1988), which contains the same provisions as Part 230. The Army Civil Works program implemented by the Corps of Engineers, except for the permitting programs and the 33 U.S.C. 408 request for permission program, will follow NEPA implementation guidance issued by the DoD and any applicable guidance issued by the Army in implementing NEPA. Actions that were ongoing as of the effective date of this rule will continue to use the rule in place at the time the action was started. The NEPA implementation procedures for the Army Civil Works permitting programs and the 33 U.S.C. 408 request for permission program will be addressed in a separate action.

Army Civil Works is retaining its CXs and related requirements in regulation (33 CFR 230.2 and 230.9) to avoid any uncertainty about the continuation of its already-established CXs or the procedural mechanism through which the Corps established them. The 2023 revisions to NEPA and the 2025 repeal of CEQ's NEPA procedures do not require reconsideration or repeal of the Corps' previous determinations as to which of its actions normally do not significantly affect the quality of the human environment, which is the basis for an agency's establishment of a CX, *see* NEPA § 111(1).

The Army has taken this action as part of DoD's broader approach to revising its implementation of NEPA, in which DoD and its components have revised their NEPA implementing procedures to conform to the 2023 statutory amendments, to respond to President Trump's direction in E.O. 14154 to, "[c]onsistent with applicable law, prioritize efficiency and certainty over any other objectives, including those of activist groups, that do not align with the policy goals set forth in section 2 of [that] order or that could otherwise add delays and ambiguity to the permitting process," and to address the pathologies of the NEPA process and NEPA litigation as identified by the Supreme Court. Where DoD and its components have retained an aspect of their preexisting NEPA implementing procedures, it is because that aspect is compatible with these guiding principles; where DoD and its components have revised or removed an aspect, it is because that aspect is not so compatible.

II. Publication as an Interim Final Rule

A. Notice-and-Comment Rulemaking Is Not Required

The Army is repealing the Corps' prior procedures and practices for implementing NEPA, a "purely procedural statute" which "simply prescribes the necessary process" for an agency's environmental review of a project—a review that is, even in its most rigorous form, "only one input into an agency's decision and does not itself require any particular substantive outcome." *Seven County*, 145 S. Ct. at 1507, 1511. "NEPA imposes no substantive constraints on the agency's ultimate decision to build, fund, or approve a proposed project," and "is relevant only to the question of whether an agency's final decision," *i.e.*, that decision to authorize, fund, or otherwise carry out a particular proposed project or activity, "was reasonably explained." *Id.* at 1511. As such, notice and comment procedures are not required because this revision falls within the Administrative Procedure Act (APA) exception for "rules of agency organization, procedure, or practice." 5 U.S.C. 553(b)(A). The Corps' existing regulations do not dictate what outcomes such consideration must produce, nor do they impose binding legal obligations on private citizens. The Corps' NEPA implementing regulations for the Civil Works program at 33 CFR part 230 are procedural, outlining how District Engineers conduct NEPA reviews for Army Civil Works projects. These regulations describe the structure of environmental documents, specify procedures, and guide District Engineer decision-making, rather than establishing substantive requirements binding the public. These are procedural provisions, not substantive environmental ones. As such, they do not require notice and comment for removal. *See* 5 U.S.C. 553(b)(A).¹

¹ Just so, DoD's new procedures will also be purely procedural, guiding the Department's own compliance with NEPA. Indeed, it is hard to see how they could be otherwise, since the Supreme Court has recently repeatedly emphasized that "NEPA is a purely procedural statute." *Seven County*, 145 S. Ct. at 1507, *see id.* at 1510 ("NEPA is purely procedural. . . . NEPA 'does not mandate particular results, but simply prescribes the necessary process' for an agency's environmental review of a project;"); *id.* at 1511 (NEPA is a purely procedural statute"); *id.* at 1513 (NEPA is properly understood as "a modest procedural requirement"); *id.* at 1514 ("NEPA's status as a purely procedural statute"); *see also id.* at 1507 ("Simply stated, NEPA is a procedural cross-check, not a substantive roadblock."). Procedures for implementing a purely procedural statute must be, by their nature, procedural rules. Surely cannot be legislative rules; as such, they do not need to be promulgated via notice-and-comment rulemaking. *See* 5 U.S.C. 553(b)(A).

Moreover, even if (and to the extent that) the Corps' regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy under 5 U.S.C. 553(b)(A). An interpretative rule provides an interpretation of a statute, rather than making discretionary policy choices that establish enforceable rights or obligations for regulated parties under delegated congressional authority. 33 CFR 230.2 & 230.3, for instance, may be classified as such. General statements of policy provide notice of an agency's intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. 33 CFR 230.1 ("Purpose"), for instance, may be classified as general statements of policy. Both of these types of agency actions are expressly exempted from notice and comment by statute. 5 U.S.C. 553(b)(A), and do not require notice and comment for removal. Accordingly, although the Corps is voluntarily providing notice and an opportunity to comment on this interim final rule, the agency has determined that notice-and-comment procedures are not required. The fact that the Corps previously undertook notice-and-comment rulemaking in promulgating these regulations is immaterial: As the Supreme Court has held, where notice-and-comment procedures are not required, prior use of them in promulgating a rule does not bind the agency to use such procedures in repealing it. *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 101 (2015).

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

Moreover, the Army also finds that, to the extent that prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the need to expeditiously replace its existing rules satisfies the "good cause" exceptions in 5 U.S.C. 553(b)(B), (d). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is "impracticable, unnecessary, or contrary to the public interest," 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). As discussed in Section I, above, the Corps' prior rules were promulgated to supplement CEQ's NEPA regulations. Following the rescission of CEQ's regulations, the Corps' current rules are left hanging in

air, supplementing a NEPA regime that no longer exists.

The Army, thus far and as a temporary, emergency measure, has been continuing to operate under its prior procedures *as if* the CEQ NEPA regime still existed. This is not, however, tenable in the long term. As soon as proper procedures are available—which they now are, in the form of DoD's Department-wide procedures—this makeshift regime needs to be rescinded immediately. Because of this need for speed and certainty, notice-and-comment is, to the extent it was required at all, impracticable and contrary to the public interest.

For the same reasons stated in the present section, above, the Army finds that “good cause” exists under 5 U.S.C. 553(d)(3) to waive the 30-day delay of the effective date that would otherwise be required. This IFR will accordingly be effective immediately.

C. The Army Solicits Comment

As explained above, comment is not required because the Corps' NEPA procedures were procedural and because, even if comment were required under the APA, good cause exists to forego it. Nevertheless, the Corps has elected voluntarily to solicit comment. The Army is soliciting comment on this interim final rule, and may make further revisions to this action, if the Army's review of any comments submitted suggests that further revisions are warranted. Commenters have 30 days from the date of publication of this interim final rule to submit comments.

III. Regulatory Compliance Analysis

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

This interim final rule is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, “Regulatory Planning and Review,” dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601)

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule, because it is a rule of agency procedure or under the “good cause” exemption in 5 U.S.C. 553(b)(A), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

C. Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. 3501 *et seq.*)

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

D. Congressional Review Act (5 U.S.C. 801 *et seq.*)

The Office of Information and Regulatory Affairs has determined that this rulemaking does not meet the criteria set forth in 5 U.S.C. 804(2) under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act), and, in any event, is not a rule at all under 5 U.S.C. 804(3)(C). Therefore, this rule is not major under the Congressional Review Act.

E. E.O. 14192, “Unleashing Prosperity Through Deregulation”

E.O. 14192 was issued on January 31, 2025, and requires that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This rule is expected to be an E.O. 14192 deregulatory action. Rescinding this part will enable the Army to update its internal Army procedures, ensuring consistent and streamlined implementation of NEPA responsibilities across all Army operations. This action will allow the Army Civil Works program to finalize the establishment of previously-proposed and publicly-reviewed CXs that will reduce government spending on environmental compliance and will shorten project timelines for those activities that do not need a detailed analysis. The Army Civil Works program currently prepares approximately 10,000 CXs annually. The Army Civil Works program expects the new and revised CXs to increase use of CXs and to shorten project-approval timelines.

F. Sec. 202, Public Law 104–4, “Unfunded Mandates Reform Act”

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule that mandates spending in any one year of \$100 million in 1995 dollars, updated annually for inflation. This rulemaking will not result in an expenditure by State, local, or Tribal Governments, in the aggregate, or by the private sector, in excess of the above threshold. Thus, no written assessment of unfunded mandates is required.

G. E.O. 13132, “Federalism”

This interim final rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, the Acting Assistant Secretary of the Army for Civil Works has determined that this rulemaking does not have sufficient federalism implications to warrant preparation of a federalism assessment.

H. E.O. 13175, “Consultation and Coordination With Indian Tribal Governments”

E.O. 13175 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on one or more Indian Tribes, preempts Tribal law, or affects the distribution of power and responsibilities between the Federal Government and Indian Tribes. This interim final rule will not have a substantial effect on Indian Tribal Governments.

I. E.O. 14192, “Unleashing Prosperity Through Deregulation”

E.O. 14192 was issued on January 31, 2025, and requires that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This rule is not subject to E.O. 14192, because this rule is not a significant regulatory action under E.O. 12866.

List of Subjects in 33 CFR Part 230

Administrative practice and procedure, Environmental impact statements, Environmental protection.

For the reasons state in the preamble, the Army Corps of Engineers amends 33 CFR part 230 as follows:

PART 230—PROCEDURES FOR IMPLEMENTING NEPA

■ 1. The authority citation for part 230 is revised to read as follows:

Authority: National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*); 5 U.S.C. 301

§ 230.1 [Removed and reserved]

■ 2. Remove and reserve § 230.1.

■ 3. Revise § 230.2 to read as follows:

§ 230.2 Applicability.

This regulation is applicable to the U.S. Army Corps of Engineers Civil Works program, except the permitting programs and the 33 U.S.C. 408 request

for permission program covered in 33 CFR part 333.

§§ 230.3 through 230.8 [Removed and reserved]

■ 4. Remove and reserve §§ 230.3 through 230.8.

§§ 230.10 through 230.26 [Removed]

■ 5. Remove §§ 230.10 through 230.26.

Appendix A to Part 230 Through Appendix C to Part 230 [Removed]

■ 6. Remove Appendix A to Part 230 through Appendix C to Part 230.

Approved by:

D. Lee Forsgren,

Acting Assistant Secretary of the Army, (Civil Works).

[FR Doc. 2025–12353 Filed 7–1–25; 2:30 pm]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Parts 320, 325, and 333

[Docket ID: COE–2025–0006]

RIN 0710–AB20

Procedures for Implementing NEPA; Processing of Department of the Army Permits

AGENCY: Army Corps of Engineers, Department of Defense (DoD).

ACTION: Interim final rule; request for comment.

SUMMARY: This interim final rule removes the U.S. Army Corps of Engineers (Corps) National Environmental Policy Act (NEPA) implementing regulations, used for evaluating permit applications, which were promulgated to supplement now-rescinded Council on Environmental Quality (CEQ) regulations, and replaces them with a new regulation that also address requests for permission under Section 14 of the Rivers and Harbors Act of 1899. Further, the Army is also making conforming changes to its regulations to eliminate references to Appendix B and other NEPA implementation regulations. In addition, this interim final rule requests comments on this action and related matters to inform Army's decision making.

DATES: This interim rule is effective July 3, 2025. Comments must be received on or before August 4, 2025.

ADDRESSES: You may submit comments, identified by docket number COE–

2025–0006 and/or 0710–AB20, by any of the following methods:

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

Email: CEHQ-NEPA@usace.army.mil. Include the docket number, COE–2025–0006, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW–CO–R, 441 G Street NW, Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: If submitting comments through the Federal eRulemaking Portal, direct your comments to docket number COE–2025–0006. All comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through [regulations.gov](http://www.regulations.gov) or email. The [regulations.gov](http://www.regulations.gov) website is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through [regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any compact disc you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Mr. Milt Boyd, 703–459–6026.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Army Civil Works Regulatory Program is authorized to issue permits for certain activities in jurisdictional waters and wetlands under the following statutory authorities: 33 U.S.C. 1344 (Clean Water Act (CWA),

section 404); 33 U.S.C. 401 (Rivers and Harbors Act (RHA) of 1899, section 9); 33 U.S.C. 403 (RHA of 1899, section 10); and 33 U.S.C. 1413 (Marine Protection, Research, and Sanctuaries Act of 1972, section 103). Title 33 Code of Federal Regulations (CFR) part 325, appendix B, outlines the NEPA implementation procedures for the Regulatory Program of the Corps. Appendix B supplements the Council for Environmental Quality (CEQ) NEPA regulations, 40 CFR 1500–1508, as well as relying on the Corps NEPA regulation at 33 CFR part 230 “[f]or additional guidance.” Appendix B.2. Part 230 in turn also rested on, and supplemented, the CEQ NEPA regulations. Appendix B also provides guidance on public involvement, the preparation of Environmental Assessments (EA), Findings of No Significant Impact (FONSI), and Environmental Impact Statements (EIS). The appendix also addresses the scope of analysis for NEPA documents, including the determination of lead and cooperating agencies.

B. CEQ's NEPA regulations been repealed, effective April 11. *See Removal of National Environmental Policy Act Implementing Regulations*, (90 FR 10610; Feb. 25, 2025). This action was necessitated by and consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 20, 2025), in which President Trump rescinded President Carter's E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make rules to begin with. The Corps' regulations, which were a supplement to those CEQ regulations, thus stand in obvious need of fundamental revision. President Trump in E.O. 14154 further directed agencies to revise their NEPA implementing procedures consistent with the E.O., including its direction to CEQ to rescind its regulations.

In addition, Congress recently amended NEPA in significant part, in the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, signed on June 3, 2023, in which Congress added substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ and individual acting agencies had previously addressed in their own procedures. The Corps recognized the need to update its regulations in light of these significant legislative changes. Since the Corps' regulations were originally designed as a supplement to CEQ's NEPA regulations, the Corps had been awaiting CEQ action before revising its regulations, consistent with

CEQ direction. *See* 40 CFR 1507.3(b) (2024); *see also* 86 FR 34154 (June 29, 2021). However, with CEQ's regulations now rescinded, and with the Corps' NEPA implementing procedures still unmodified more than two years after this significant legislative overhaul, it is exigent that the Army move quickly to conform its procedures to the statute as amended.

Finally, the Supreme Court on May 29, 2025 issued a landmark decision, *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), in which it decried the “transform[ation]” of NEPA from its roots as “a modest procedural requirement” into a significant “substantive roadblock” that “paralyze[s]” “agency decisionmaking.” *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency conclusions underlying its NEPA process. *Id.* at 1513–14. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” which, in light of judicial “micromanage[ment],” had been “tak[ing] ever more time and [] preparing ever longer EISs for future projects.” *Id.* at 1513. The Corps, thus, is issuing this IFR to align its actions with the Supreme Court's decision and streamline its process of ensuring reasonable NEPA decision. This revision has thus been called for, authorized, and directed by all three branches of government at the highest possible levels.

C. Therefore, the Corps is replacing 33 CFR part 325, appendix B with 33 CFR part 333—Procedures for Complying with the National Environmental Policy Act. Title 33 CFR part 333 will provide the implementation procedures for the Army Civil Works Regulatory Program and for the Army Civil Works, 33 U.S.C. 408, permission process. In addition to the Regulatory program authorities originally covered by appendix B, Congress also authorized the Corps to provide permission for “the temporary occupation or use of [Civil Works projects] . . . when . . . such occupation or uses will not be injurious to the public interest” and for “the alteration or permanent occupation or use of any [Civil Works project] . . . when . . . such occupation or use will not be injurious to the public interest and will not impair the usefulness of such work.” 33 U.S.C. 408(a). The 33 U.S.C. 408 permission program had

relied on NEPA implementation procedures in 33 CFR part 230. While appendix B did not apply to 33 U.S.C. 408 authorizations, 33 CFR part 333 will be the NEPA procedures the Corps will follow when deciding whether to grant permission under 33 U.S.C. 408(a) because the procedural aspects of NEPA analysis supporting evaluations of requests for section 408 permissions are more like the regulatory program than other aspects of the Civil Works program covered by part 230. The Corps is publishing NEPA implementing procedures consistent with NEPA as amended by the Fiscal Responsibility Act of 2023.

The Army's new NEPA implementing procedures, as adopted via this interim final rule, are a more faithful implementation of the statute as amended in 2023 than its old procedures. They implement major structural features of the 2023 amendments, such as deadlines and page limits for environmental assessments and environmental impact statements, as directed at NEPA Section 107(g), and provide that the Corps will complete preparation of these documents within the maximum length and on the timeline that Congress intends. They incorporate Congress's definition of “major Federal action” and the exclusions thereto, as codified at NEPA Section 111(10). They incorporate Congress's mandated procedure for determining the appropriate level of review under NEPA, as codified in NEPA Section 106. They incorporate Congress's direction with respect to establishment, adoption, and application of categorical exclusions, as codified at NEPA Section 111(10). They provide procedures governing project-sponsor-prepared environmental assessments and environmental impact statements, as directed at NEPA Section 107(f). And they incorporate Congress's revision to the requirements for what an agency must address in its environmental impact statements, as codified at NEPA Section 102(2)(C), and Congress's requirement that public notice and solicitation of comment be provided when issuing a notice of intent to prepare an environmental impact statement, as directed at NEPA Section 107(c). All of these are crucial features of Congress's policy design and its purpose in the 2023 amendments that NEPA review be more efficient and certain.

Moreover, all of these respond to the President's directive in E.O. 14154; and all of these reflect the Supreme Court's recent and unequivocal statement that NEPA is a purely procedural statute. The Army is conscious of the Supreme

Court's admonition that NEPA review has grown out of all proportion to its origins of a “modest procedural requirement,” creating, “under the guise of just a little more process,” “[d]elay upon delay, so much so that the process seems to ‘borde[r] on the Kafkaesque.’” *Seven County*, 145 S. Ct. at 1513 (internal quotation omitted). These new procedures, therefore, are intended to align NEPA with its Congressionally mandated dimensions, reflecting the guidance given also by the President and the Supreme Court, and making review under it faster, more flexible, and more efficient.

The Army acknowledges that third parties may claim to have reliance interests in the Corps' existing NEPA procedures. But revised agency procedures will have no effect on ongoing NEPA reviews, where the Army, following CEQ guidance, has determined it will continue to apply to existing applications. Moreover, as the Supreme Court just explained, NEPA “is a purely procedural statute” that “imposes no substantive environmental obligations or restrictions.” *Seven County*, 145 S. Ct. at 1507. Any asserted reliance interests grounded in substantive environmental concerns are not in accord with the best meaning of the law and are entitled to “no . . . weight.” *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1914 (2020).

Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in *prospective* procedures. To the extent such interests exist, the Army concludes that they are outweighed by other interests and policy concerns. The Army's new NEPA procedures, is necessary to ensure efficient and predictable reviews, with significant upsides for the economy and for projects with activities needing Corps authorization. This set of policy considerations drastically outweighs any claimed reliance interests in the preexisting procedures.

The Army has taken this action as part of DoD's broader approach to revising its implementation of NEPA, in which DoD and its components have revised their NEPA implementing procedures to conform to the 2023 statutory amendments, to respond to President Trump's direction in E.O. 14154 to, “[c]onsistent with applicable law, prioritize efficiency and certainty over any other objectives, including those of activist groups, that do not align with the policy goals set forth in section 2 of [that] order or that could otherwise add delays and ambiguity to the permitting process,” and to address

the pathologies of the NEPA process and NEPA litigation as identified by the Supreme Court. Where Army has retained an aspect of their preexisting NEPA implementing procedures, it is because that aspect is compatible with these guiding principles; where the Army has revised or removed an aspect, it is because that aspect is not so compatible.

1. The Army Is Making Conforming Amendments to Various Provisions in 33 CFR Part 320, 33 CFR Part 325, and Appendix C to That Part to Reference the New Location for NEPA Implementing Procedures

2. Section-by-Section Overview of Part 333

Subpart A—Purpose and Policy

Section 333.1 Purpose and Policy

This section outlines the integration of NEPA into the Corps' decision-making processes for evaluating applications from other entities for authorization by the Corps, ensuring that impacts to the human environment are considered early to facilitate informed decision-making and timely reviews. It establishes procedures for Corps District Engineers to fulfill NEPA requirements and clarifies that it does not govern individual rights but sets forth the Corps' practices for implementing NEPA.

Section 333.2 Applicability

This section states that the procedures apply to all Corps elements processing Department of the Army Permit applications under 33 U.S.C. 1344 (Clean Water Act (CWA), section 404); 33 U.S.C. 401 (Rivers and Harbors Act (RHA) of 1899, section 9); 33 U.S.C. 403 (RHA of 1899, section 10); and 33 U.S.C. 1413 (Marine Protection, Research, and Sanctuaries Act of 1972, section 103) and when granting permissions under 33 U.S.C. 408 (RHA of 1899, section 14). This section clarifies that NEPA imposes procedural requirements and is supplementary to the Corps' other existing legal authorities or responsibilities. This section discusses the responsibilities of satisfying NEPA requirement as resting with the District Engineer. This is because for most permitting actions decision making authority has been delegated to the District Engineer (see *e.g.*, 33 CFR 325.8(b)). However, some decisions are required to be elevated to the Division Engineer or other higher authority (see *e.g.*, 33 CFR 325.8(c)). In cases in which decision making authority is elevated to a higher authority, the responsibilities ascribed to the District Engineer in this

Part are similarly elevated to that higher authority making the decision.

Subpart B—NEPA and General Concepts

Section 333.11 Determining When NEPA Applies

This section outlines the circumstances under which NEPA does not apply to proposed agency permitting actions. NEPA is not applicable when activities do not result in final agency action, are exempted by law, conflict with other legal requirements, or when Congress has prescribed decisional criteria that leave no discretion for environmental considerations. Additionally, NEPA does not apply if another statute fulfills its function, if the action is not a "major Federal action," or if it involves non-Federal actions with minimal Federal involvement.

This section identifies a number of Corps activities that are not subject to NEPA: preliminary jurisdictional determinations; approved jurisdictional determinations; determination on whether an activity requires a Corps permit or permission; aquatic resource delineation concurrence or non-concurrence determinations; or determinations that the modification of unimproved real estate of a project would not affect the function and usefulness of the project. These determinations are not permits; they answer jurisdictional questions about whether specific regulatory regimes apply to an area or activity. Specifically, they address whether an area or activity is subject to Corps jurisdiction, which is made through the application of a standard established in statute or regulation to the physical circumstances of the site. In each of those cases, the law or regulation limits the factors that the Corps can use in making these determinations and does not give the Corps authority or discretion to consider the effects on the environment when making the determination, or to formulate and weigh decision alternatives based upon their comparative environmental effects. Because the Corps does not have authority or discretion to take environmental factors into account when making these determinations, the Corps is not required to prepare a NEPA document (42 U.S.C. 4336(a)(4)) and 4336e(10)(vii)) when conducting these actions.

Preliminary jurisdictional determination. A preliminary jurisdictional determination is a written indication that there may be waters of the United States on a parcel or indications of the approximate location(s) of waters of the United States

on a parcel (33 CFR 331.2). A preliminary jurisdictional determination identifies the limits of all aquatic resources on a parcel without determining the jurisdictional status of such aquatic resources (Regulatory Guidance Letter 16–01, Subject: Jurisdictional Determinations (October 2016)). A preliminary jurisdictional determination is a purely technical evaluation of what constitutes an aquatic resource. There is no discretion to consider the environmental effects of decisions about what constitutes an aquatic resource.

Approved jurisdictional determination. An approved jurisdictional determination is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel (33 CFR 331.2). What constitutes waters of the United States is defined in regulation (33 CFR 328.3(a)) and that regulation does not allow for any discretion to consider the environmental effects of the determination. The regulations require a strict application of the technical standard to the facts on the ground.

Determination of whether an activity requires a permit. The determination whether an activity requires a Corps permit or permission requires applying jurisdictional standards including whether an activity constitutes a discharge of dredged material or fill material (33 CFR 323.3), is exempted by subsection 404(f) of the Clean Water Act, is a structure or work in or affecting navigable waters of the United States (33 CFR 322.3), involves the transportation of dredged material for the purpose of dumping it in ocean waters (33 CFR 324.3), or constitutes an alteration of a Civil Works project (Engineer Circular 1165–2–220, paragraph 9). Each of these determinations is an evaluation of a jurisdictional standard rooted in law against the facts of a specific circumstance. The standards do not provide for the consideration of environmental effects. That consideration of environmental effects occurs only after it's determined that the activity is jurisdictional and the Corps is determining whether to authorize the work. When a determination has been made that the activity is not jurisdictional, the Corps can issue a letter documenting that determination and that no permit is required.

Aquatic resource delineation. During the Corps' coordination with potential permit applicants the Corps is sometimes asked to review aquatic

resource delineations prepared by landowners or their consultations.

Aquatic resource delineation reports identify and map the extent of aquatic resources (such as rivers, streams, and wetlands) within a specified review area using scientific methods. This is similar to what is documented in a preliminary jurisdictional determination but in a different, less formal, format. Just like a preliminary jurisdictional determination, this is a purely technical evaluation of what constitutes an aquatic resource. There is no discretion to consider the environmental effects of decisions about what constitutes an aquatic resource. Any feedback provided by the Corps, including concurrence or non-concurrence with the report, is not subject to NEPA.

Modification of unimproved real estate. The Section 408 statute provides that “the term ‘work’ shall not include unimproved real estate owned or operated by the Secretary as part of a water resources development project if the Secretary determines that modification of such real estate would not affect the function and usefulness of the project” (33 U.S.C. 408(e)). If an activity is determined to not constitute “work,” then it is not subject to review and approval under the Section 408 authority. It is a jurisdictional standard to determine whether Section 408 applies to an activity. The law provides that determining whether an activity is “work” is determined solely on the basis of whether the activity occurs on unimproved real estate owned or operated by the Secretary as part of a water resources development project and whether the activity would affect the function and usefulness of the project. The law does not give the Corps discretion to consider the environmental effects of the activity when determining whether it constitutes “work.”

Section 333.12 Determining the Appropriate Level of NEPA Review

This section describes the process for determining the appropriate level of NEPA review if NEPA applies. The District Engineer will consider whether a particular proposed activity is excluded pursuant to a categorical exclusion, and, if not, whether to prepare an environmental assessment or an environmental impact statement based on the proposed activity’s potential effects. The section also details the analysis of the affected environment and the degree of effects to determine significance.

Section 333.13 NEPA and Agency Decision-Making

This section explains how the District Engineer incorporates public input and existing environmental analyses into the NEPA process. It also outlines limitations on actions during the NEPA process and coordination with applicants to ensure compliance and information gathering.

Section 333.14 Categorical Exclusions

This section outlines the process used by the Corps to establish, revise, and apply categorical exclusions, including adopting exclusions from other agencies. To establish or revise a categorical exclusion, the Chief of Engineers must determine that the actions do not significantly affect the human environment, and this process involves consultation with the CEQ and public notice. The Corps can rely on a determination from other Federal agencies that a proposed action is excluded pursuant to a categorical exclusion if the proposed action before the Corps and the proposed action before the other agency or agencies are substantially the same, and this reliance must be documented. The section also details the removal process of categorical exclusions, which requires justification, consultation, and public notice. This section recodifies the existing categorical exclusions from Appendix B and includes a reference to the list of categorical exclusions that the Corps relies on when evaluating requests for permissions. Finally, it describes how the District Engineer evaluates proposed actions for extraordinary circumstances and documents the applicability of categorical exclusions to exclude a particular proposed activity from the obligation to prepare an environmental document.

Section 333.15 Environmental Assessments

This section outlines the procedures for preparing environmental assessments under NEPA, specifying that if an activity is not excluded pursuant to a categorical exclusion from the requirement to prepare an EA or EIS, the District Engineer must prepare an assessment unless an environmental impact statement is clearly required. The assessment should discuss the purpose, need, and alternatives for the proposed activity, and conclude with a finding of no significant impact or a determination that an environmental impact statement is necessary. Environmental assessments are typically required for activities not excluded

pursuant to categorical exclusions or involving extraordinary circumstances where the District Engineer does not determine and document that, notwithstanding the presence of extraordinary circumstances, it is appropriate to exclude the proposed activity pursuant to a categorical exclusion, and they must adhere to specific page limits and formatting guidelines. The District Engineer is responsible for certifying that the assessment meets NEPA’s requirements. This section also provides deadlines for preparing environmental assessments. These deadlines derive from Congress’s establishment of deadlines in the 2023 revision of NEPA, which supplied the measure of the “rule of reason” which the Supreme Court has repeatedly held must govern NEPA analysis.

Section 333.16 Findings of No Significant Impact

This section details the preparation of a finding of no significant impact when an environmental assessment indicates no significant effects. It includes documentation requirements and the conclusion of the NEPA process if no environmental impact statement is needed.

Section 333.17 Lead and Cooperating Agencies

This section discusses the roles of the Corps as a lead or cooperating agency in the NEPA process. It outlines responsibilities for managing the NEPA process and providing environmental information, as well as coordination with other agencies.

Section 333.18 Notices of Intent and Scoping

This section describes the publication of a notice of intent for an environmental impact statement and the scoping process to determine the scope of issues for analysis. It emphasizes the District Engineer’s responsibility to define the scope based on legal authority and control over the proposed activity. This section details what factors District Engineers will use to determine the proper scope for NEPA documents. The rescinded Appendix B contained a provision addressing “scope of analysis” and that provision has been recodified in this section. The “scope of analysis” provision in the revised Corps Regulatory Program NEPA regulations is essentially identical with the provision that has existed in the Corps’ NEPA regulations since 1988. The Corps does not have legal authority to regulate activities outside jurisdictional water bodies. The limited extent of the Corps’ authority is an essential consideration

in determining what scope of analysis to use. Therefore, the Corps is adding the expression “legal authority” to the list of considerations that Corps officials must consider as they determine the appropriate NEPA scope of analysis to use for any particular permit application. The section also includes language to reflect that it applies to requests for permission under 33 U.S.C. 408.

Subpart C—Environmental Impact Statements

Section 333.20 Significance Determination

This section outlines the process for determining if an environmental impact statement is required based on the likelihood of significant effects. It emphasizes the timing of this determination and the notification process to the applicant.

Section 333.21 Preparation of Environmental Impact Statements

This section details the process of preparing an environmental impact statement, including obtaining comments from relevant agencies. It ensures that the process does not violate deadlines and addresses significant comments received.

Section 333.22 Purpose and Need

This section explains the requirement to state the purpose and need for the proposed agency action, informed by the applicant's goals and the Corps' statutory authority.

Section 333.23 Analysis Within the Environmental Impact Statement

This section specifies that the environmental impact statement must include a detailed analysis of the reasonably foreseeable environmental effects, reasonably foreseeable unavoidable adverse effects, and a reasonable range of alternatives to the proposed agency action. It also addresses the relationship between short-term uses and long-term productivity, any irreversible commitments of resources, and potential mitigation measures, while emphasizing the need for concise and significant-focused discussions.

Section 333.24 Page Limits

This section sets page limits for environmental impact statements, including the availability of an extended page limit for complex actions, and outlines formatting requirements.

Section 333.25 Deadlines

This section provides deadlines for preparing environmental impact

statements. These deadlines derive from Congress's establishment of deadlines in the 2023 revision of NEPA, which supplied the measure of the “rule of reason” which the Supreme Court has repeatedly held must govern NEPA analysis.

Section 333.26 Publication of the Environmental Documents

This section requires the publication of the environmental impact statement on a public website. This section also allows District Engineers to publish predecisional drafts where appropriate to assist in fulfilling NEPA responsibilities, but publication of a draft is not required.

Section 333.27 Public Hearing

This section provides guidelines for holding any public hearings related to environmental impact statements and coordinating with other agencies when necessary.

Section 333.28 Comments Received on the Environmental Impact Statement

This section requires the District Engineer to consider and respond to any substantive comments on any published predecisional draft of environmental impact statements, forwarding them to higher authorities if needed.

Section 333.29 Review of Other Agencies' Environmental Impact Statements.

This section addresses the Corps' review of another agencies' environmental impact statements.

Subpart D—Efficient Environmental Reviews

Section 333.31 Tiered Environmental Documents

This section allows for tiered environmental documents for multi-phased reviews under 33 U.S.C. 408. Multi-phased reviews are used to analyze complex proposed alterations through successive levels of review through an iterative process established for the particular activity. The goal of the process is to identify larger-scale issues, such as with project siting or basic design, early in the project development process before investments are made in more detailed levels of design. In this multi-phased process, the Corps evaluates each successive level of design to determine if there are issues with the design that would prevent authorization of the alteration. If no impediments are identified at a given phase, the proponent is allowed to move to the next milestone and level of development. (Approval of earlier phases does not guarantee approval of a

subsequent alteration or further level of development.) A key consideration of the evaluation of each phase is the likely impacts on the environment given the level of planning and detail, and tiered levels of NEPA would be conducted for each phase of the multi-phase review. Just as the level of design increases with each successive phase of the multi-phase review, the level of detail in the environmental analysis would increase and build off earlier tiers. This multi-phase review, and the inclusion of environmental consideration at each phase, allows the parties to identify and avoid unnecessary impacts on the environment and better build-in environmental considerations into the development path of the project while acknowledging financing, scheduling, and informational constraints along the way.

Section 333.32 Reliance on Existing Environmental Documents

This section permits the District Engineer to rely on existing environmental documents if they meet NEPA standards, with modifications as necessary. This section replaces the concept of adopting other NEPA documents by using the term “reliance,” to avoid confusion with Congress's use in the 2023 NEPA amendments of the term “adoption” in new Section 109 in the special context of an agency adopting a categorical exclusion established by another agency.

Section 333.33 Incorporation

This section allows for the incorporation of relevant materials into environmental documents by reference to reduce bulk while ensuring accessibility for review. The District Engineer will not use incorporation as a means to evade the statutory page limits.

Section 333.34 Supplemental Environmental Documents

This section provides the process for the preparation of supplemental environmental documents if significant changes to the proposed action occur or if new relevant information arises. It specifies that supplements are necessary only if a major Federal action is still pending.

Section 333.35 Integrity and Completeness of Information

This section states that the District Engineer will rely on existing data for analyses unless new research is essential and cost-effective. It also requires the disclosure of any

incomplete or unavailable information in environmental documents.

Section 333.36 Integrating NEPA With Other Environmental Requirements

This section emphasizes the integration of NEPA documents with other federal environmental requirements to minimize duplication. It allows for the combination of NEPA documents with other agency documents and includes a section for listing necessary consultations and permits.

Section 333.37 Elimination of Duplication With State, Tribal, and Local Procedures

This section encourages cooperation with State, Tribal, and local agencies to reduce duplication in environmental documentation. It outlines potential collaborative efforts, such as joint planning and public hearings, to streamline processes.

Section 333.38 Unique Identification Numbers

This section requires the assignment of unique identification numbers to all environmental documents for tracking purposes. It ensures coordination with the CEQ and other Federal agencies for uniformity in identification numbers.

Section 333.39 Emergency Procedures

This section outlines procedures for proposed agency actions related to emergency response without observance of full NEPA documentation as otherwise applicable under the provisions of these NEPA implementing procedures, considering environmental consequences and consulting with CEQ for actions with likely significant impacts. This does not provide an exception from compliance with the NEPA statute, but rather an alternative means of complying with the statute in emergency situations.

Subpart E—Agency Decision Making

Section 333.41 Decision Documents

This section describes the preparation and publication of decision documents at the conclusion of the NEPA process, certifying that all relevant information has been considered. It clarifies that the record of decision is separate from the final EIS and informs the final agency action but is not the final action itself.

Section 333.42 Filing Requirements

This section outlines the responsibility of the District Engineer to file environmental impact statements, along with comments and responses, with the U.S. Environmental Protection

Agency (EPA) for publication in the **Federal Register**.

Subpart F—Procedures for Applicant-Prepared NEPA Documents

Section 333.51 Procedures for Applicant-Prepared Environmental Documents

This section describes the procedures for the preparation of environmental documents by applicants or contractors under the supervision of the District Engineer, in accordance with NEPA section 107(f). The District Engineer is responsible for independently evaluating the environmental document and providing guidance to applicants and contractors. The section also details the collaboration between the District Engineer and the applicant in defining the purpose and need, developing alternatives, and scheduling the preparation of the draft environmental document. Additionally, the District Engineer may request environmental information from the applicant and require resubmission with adequate or accurate data, documenting the Corps' independent evaluation.

Subpart G—Definitions

Section 333.61 Definitions

This section provides definitions of terms used in this part.

Subpart H—Severability

Section 333.71 Severability

The section address severability should a court invalidate a section of this part.

II. Publication as an Interim Final Rule

A. Notice-and-Comment Rulemaking Is Not Required

The Army is repealing, revising, and replacing its procedures and practices for implementing NEPA, a “purely procedural statute” which “‘simply prescribes the necessary process’ for an agency’s environmental review of a project”—a review that is, even in its most rigorous form, “only one input into an agency’s decision and does not itself require any particular substantive outcome.” *Seven County*, 145 S. Ct. at 1511. “NEPA imposes no *substantive* constraints on the agency’s ultimate decision to build, fund, or approve a proposed project,” and “is relevant only to the question of whether an agency’s final decision”—*i.e.*, that decision to authorize, fund, or otherwise carry out a particular proposed project or activity—“was reasonably explained.” *Id.* As such, notice and comment procedures are not required because this revision falls within the Administrative

Procedure Act (APA) exception for “rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A). Procedures for implementing a purely procedural statute must be, by their nature, procedural rules. Surely they cannot be legislative rules; as such, they do not need to be promulgated via notice-and-comment rulemaking. *See* 5 U.S.C. 553(b)(A). And even if that were not universally true, the new rules adopted in this notice *are* purely procedural.

Thus, unsurprisingly, both the prior portions of part 325 and the new part 333 do not dictate what outcomes the Corps’ consideration of information analyzed under NEPA must produce, nor do they impose binding legal obligations on private citizens. Rather, the Army’s NEPA-implementing regulations for the Corps Regulatory Program and the section 408 permission program, including Appendix B and, now, part 333, are procedural, outlining how District Engineers or Division Engineers conduct NEPA reviews. These regulations describe the structure of environmental documents, specify procedures, and guide District Engineer decision-making, rather than establishing substantive requirements binding the public. These are procedural provisions, not substantive environmental ones. As such, they do not require notice and comment for removal or replacement. *See* 5 U.S.C. 553(b)(A).

Moreover, even if (and to the extent that) the regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy, neither of which necessitates notice and comment under 5 U.S.C. 553(b)(A). They offer the Corps’ interpretations of NEPA, a procedural statute itself, and guidance on agency practice, without creating enforceable rights or obligations for the regulated public. General statements of policy provide notice of an agency’s intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. The former Appendix B contains many paragraph-length explanations of the Corps’ interpretations of NEPA and/or policies that the Corps considers in applying it. Similarly, the definitions and policy sections of the new Part 333 are clearly interpretive and policy statements, respectively. All such material is expressly exempted from notice and comment by statute, 5 U.S.C. 553(b)(A), and does not require notice and comment for removal or replacement.

Accordingly, although the Army is voluntarily providing notice and an opportunity to comment on this interim final rule, the agency has determined that notice-and-comment procedures are not required. The fact that the Corps previously undertook notice-and-comment rulemaking in promulgating these regulations is immaterial: As the Supreme Court has held, where notice-and-comment procedures are not required, prior use of them in promulgating a rule does not bind the agency to use such procedures in repealing it. *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 101 (2015).

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

Moreover, the Army also finds that, to the extent that prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the need to expeditiously replace its existing rules satisfies the “good cause” exceptions in 5 U.S.C. 553(b)(B) and (d). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is “impracticable, unnecessary, or contrary to the public interest,” 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). As discussed in Section I, above, the Corps’ prior rules were promulgated to supplement the Council on Environmental Quality’s (CEQ’s) NEPA regulations. Following the rescission of CEQ’s regulations, the Corps’ current rules are left hanging in air, supplementing a NEPA regime that no longer exists. The Corps, thus far and as a temporary, emergency measure, has been continuing to operate under its prior procedures *as if* the CEQ NEPA regime still existed. This is not, however, tenable. As soon as proper procedures are available—which they now are, in the form of Part 333—this makeshift regime needs to be rescinded immediately. The section 408 permission program will also now follow a set of up-to-date NEPA implementing procedures and not 33 CFR part 230. The status of 33 CFR part 230 will be addressed in a separate action, but the section 408 program will follow 33 CFR part 333. Because of this need for speed and certainty in replacing a defunct NEPA regime, notice-and-comment is, to the extent it was required at all, impracticable and contrary to the public interest.

For the same reasons stated in the present section, above, the Army finds that “good cause” exists under 5 U.S.C. 553(d)(3) to waive the 30-day delay of

the effective date that would otherwise be required.

III. Request for Comments

As explained above, comment is not required because the Corps’ NEPA procedures were procedural and because, even if comment were required under the APA, good cause exists to forego it. Nevertheless, the Corps has elected voluntarily to solicit comment. The Army is soliciting comment on this interim final rule, and may make further revisions to its NEPA implementing procedures, if the Army’s review of any comments submitted suggests that further revisions are warranted. Commenters have 30 days from publication of this interim final rule to submit comments.

IV. Effective Date

This rule becomes effective on the date of publication in the **Federal Register** and applies to permit applications or requests for permission submitted on or after the effective date. Permit applications or requests for permission submitted before the effective date of this rule will continue to use the rule in place at the time the application or request was submitted. In situations where the Corps has not published a notice of intent to prepare an environmental impact statement or a public notice under 33 CFR 325.3 for applications or requests ongoing before the effective date of these regulations, the District Engineer may elect to follow these procedures with the agreement of the applicant.

V. Executive Orders 12866 and 13563

This interim final rule is a significant regulatory action and, therefore, was reviewed under E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

VI. Executive Order 14192

This interim final rule is not subject to E.O. 14192, because this rule is not a significant regulatory action under E.O. 12866.

VII. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the “good cause” exemption in 5 U.S.C. 553(b), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. In any event, this interim final rule is not subject to that Act because it will not have a significant impact on a substantial number of small entities. Accordingly,

no regulatory flexibility analysis is required, and none has been prepared. See 5 U.S.C. 603(a), 604(a).

VIII. Paperwork Reduction Act

The interim final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects

33 CFR Part 320

Administrative practice and procedure, Dams, Environmental protection, Intergovernmental relations, Navigation, Water pollution control, Waterways.

33 CFR Part 325

Administrative practice and procedure, Dams, Environmental protection, Intergovernmental relations, Navigation, Water pollution control, Waterways.

33 CFR Part 333

Administrative practice and procedure, Dams, Environmental protection, Intergovernmental relations, Navigation, Water pollution control, Waterways.

For the reasons stated in the preamble, the Corps amends 33 CFR chapter II as set forth below:

PART 320—GENERAL REGULATORY POLICIES

- 1. The authority citation for part 320 is revised to read as follows:

Authority: 5 U.S.C. 301; 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413.

- 2. Amend § 320.3 by revising paragraph (d)(2) to read as follows:

§ 320.3 Related laws.

* * * * *

(d) * * *

(2) All agencies of the Federal Government shall * * * insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations * * *.” (See 33 CFR part 333.)

* * * * *

PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

- 3. The authority citation for part 325 is revised to read as follows:

Authority: 5 U.S.C. 301; 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413.

■ 4. Amend § 325.1 by revising paragraph (b) to read as follows:

§ 325.1 Applications for permits.

* * * * *

(b) *Pre-application consultation for major applications.* The district staff element having responsibility for administering, processing, and enforcing federal laws and regulations relating to the Corps of Engineers regulatory program shall be available to advise potential applicants of studies or other information foreseeably required for later federal action. The district engineer will establish local procedures and policies including appropriate publicity programs which will allow potential applicants to contact the district engineer or the regulatory staff element to request pre-application consultation. Upon receipt of such request, the district engineer will assure the conduct of an orderly process which may involve other staff elements and affected agencies (Federal, state, or local) and the public. This early process should be brief but thorough so that the potential applicant may begin to assess the viability of some of the more obvious potential alternatives in the application. The district engineer will endeavor, at this stage, to provide the potential applicant with all helpful information necessary in pursuing the application, including factors which the Corps must consider in its permit decision making process. Whenever the district engineer becomes aware of planning for work which may require a DA permit and which may involve the preparation of an environmental document, they shall contact the principals involved to advise them of the requirement for the permit(s) and the attendant public interest review including the development of an environmental document. Whenever a potential applicant indicates the intent to submit an application for work which may require the preparation of an environmental document, a single point of contact shall be designated within the district's regulatory staff to effectively coordinate the regulatory process, including the National Environmental Policy Act (NEPA) procedures and all attendant reviews, meetings, hearings, and other actions, including the scoping process if appropriate, leading to a decision by the district engineer. Effort devoted to this process should be commensurate with the likelihood of a permit application actually being submitted to the Corps. The regulatory staff coordinator shall maintain an open relationship with each potential applicant or their consultants so as to assure that the potential applicant is

fully aware of the substance (both quantitative and qualitative) of the data required by the district engineer for use in preparing an environmental assessment (EA) or an environmental impact statement (EIS) in accordance with 33 CFR part 333.

* * * * *

■ 5. Amend § 325.2 by revising paragraph (a) to read as follows:

§ 325.2 Processing of applications.

(a) * * *

(4) The district engineer will follow 33 CFR part 333 for environmental procedures and documentation required by the National Environmental Policy Act of 1969, as amended. A decision on a permit application will require either an environmental assessment or an environmental impact statement unless it is included within a categorical exclusion.

* * * * *

■ 6. Amend § 325.3 by revising paragraph (a)(9) to read as follows:

§ 325.3 Public notice.

(a) * * *

(9) If appropriate, a statement that the activity is included within a categorical exclusion for purposes of NEPA;

* * * * *

Appendix B to Part 325—[Removed and Reserved]

■ 7. Under the authority of 5 U.S.C. 301, remove and reserve Appendix B to Part 325.

■ 8. Amend Appendix C to Part 325 by revising paragraph 2.b. to read as follows:

Appendix C to Part 325—Procedures for the Protection of Historic Properties

* * * * *

2. * * *

b. In addition to the requirements of the NHPA, all historic properties may be subject to consideration under the National Environmental Policy Act, (33 CFR part 333), and the Corps' public interest review requirements contained in 33 CFR 320.4. Therefore, historic properties may be included as a factor in the district engineer's decision on a permit application.

* * * * *

■ 9. Add part 333 to read as follows:

PART 333—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS AND 33 U.S.C. 408 PERMISSIONS, NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

Sec.

Subpart A—Purpose and Policy

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Subpart D—Efficient Environmental Reviews

333.31 Tiered environmental documents.
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Subpart E—Agency Decision Making

333.41 Decision documents.
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Subpart F—Procedures for Applicant-Prepared NEPA Documents

333.51 Procedures for applicant-prepared environmental documents.

Subpart G—Definitions

333.61 Definitions.

Authority: 5 U.S.C. 301; 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413; 42 U.S.C. 4321 *et seq.*

Subpart A—Purpose and Policy

§ 333.1 Purpose and policy.

(a) The purpose of these procedures is to integrate the National Environmental Policy Act (NEPA) into the U.S. Army Corps of Engineers' (Corps) decision-making processes for evaluating applications from other, non-Corps entities for authorization by the Corps. Specifically, the procedures: describe the process by which a District or

Division Engineer determines what actions are subject to NEPA's procedural requirements and the applicable level of NEPA review; ensure that relevant environmental information is identified and considered early in the process in order to ensure informed decision making; enable District Engineers to conduct coordinated, consistent, predictable and timely environmental reviews; reduce unnecessary burdens and delays; and implement NEPA's mandates regarding lead and cooperating agency roles, page and time limits, and sponsor preparation of environmental documents.

(b) This part sets forth the Corps procedures and practices for implementing NEPA when considering Department of the Army permit applications under 33 U.S.C. 1344 (Clean Water Act, section 404); 33 U.S.C. 401 (Rivers and Harbors Act of 1899, section 9); 33 U.S.C. 403 (Rivers and Harbors Act of 1899, section 10); and 33 U.S.C. 1413 (Marine Protection, Research, and Sanctuaries Act of 1972, section 103) and requests for permission under 33 U.S.C. 408 (Rivers and Harbors Act of 1899, section 14). The Regulatory Program of the Corps implements 33 U.S.C. 1344, 33 U.S.C. 401, and 33 U.S.C. 1413 and references to the Regulatory Program in this part refer to the processing of permit applications under those authorities. As used in this part, "permit" means an authorization under any of the authorities in this paragraph, and "application" means any request for authorization under any of the above identified authorities. This part further explains the Corps' interpretation of certain key terms in NEPA. It does not, nor does it intend to, govern the rights and obligations of any party outside the government. It does, however, establish the procedures under which Corps District Engineers will typically fulfill requirements under NEPA for decisions under the authorities in this paragraph. The responsibilities of the District Engineer, as described in this part, may be elevated to a higher authority consistent with existing delegations and authorities and in such cases the role of the District Engineer described in the part will be assumed by the entity with decision making authority.

(c) Consultation with the Council on Environmental Quality ("CEQ"). In addition to the process for establishing or revising categorical exclusions set forth in § 333.14(b) and (d), the Corps will consult with CEQ while developing or revising their proposed NEPA implementing procedures, in accord with NEPA section 102(2)(B), 42 U.S.C. 4332(B).

§ 333.2 Applicability.

(a) *Applicability.* This Part applies to all Corps elements processing applications for Department of the Army Permits or requests for permission under the authorities listed in 33 CFR 333.1(b).

(b) *Authority.* NEPA imposes certain procedural requirements on the exercise of the Corps' existing legal authority in relevant circumstances. Nothing contained in these procedures is intended or should be construed to limit the Corps' other authorities or legal responsibilities.

Subpart B—NEPA and General Concepts

§ 333.11 Determining when NEPA applies.

District Engineers will determine that NEPA does not apply to a proposed agency permitting action when:

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

(b) The proposed activity or decision is exempted from NEPA by law;

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

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

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

(f) The proposed action is not a "major Federal action," which is defined at 42 U.S.C. 4336e(10). Additionally, the terms "major" and "Federal action" each have independent force. NEPA applies only when both of these two criteria are met. Such a determination is specific to the facts and circumstances of each individual situation and is reserved to the judgment of the District Engineer in each instance. In addition to the illustrative general categories in NEPA section 111(10), 42 U.S.C. 4336e(10), the Corps has determined that the following non-exhaustive list of Corps activities related to the Regulatory Program and

33 U.S.C. 408 are presumptively not subject to NEPA as not meeting the definition of a major Federal action:

(1) Preliminary Jurisdictional Determinations;

(2) Approved Jurisdictional Determinations;

(3) Determination of whether an activity requires a Corps permit or permission;

(4) Aquatic resource delineation concurrence or non-concurrence determinations; or

(5) Determination that the modification of unimproved real estate of a project would not affect the function and usefulness of the project.

(g) NEPA does not apply to "non-Federal actions." Therefore, under the terms of the statute, NEPA does not apply to actions with no or minimal Federal funding, or with no or minimal Federal involvement where a Federal agency cannot control the outcome of the project. NEPA § 111(10)(B)(i), 42 U.S.C. 4336e(10)(B)(i). A but-for causal relationship is insufficient to make the Corps responsible for a particular action under NEPA.

(h) The issuance or update of the Corps' NEPA procedures is not subject to NEPA review.

(i) In determining whether NEPA applies to a proposed action, the Corps will consider only the project at hand.

§ 333.12 Determine the appropriate level of NEPA review.

(a) If the District Engineer determines under § 333.11 that NEPA applies to a proposed activity or decision, the District Engineer will then determine the appropriate level of NEPA review in the following sequence and manner. At all steps in the following process, the Corps will consider the proposed activity and *its* effects.

(1) If the Corps has established, or adopted pursuant to NEPA section 109, 42 U.S.C. 4336c, a categorical exclusion that covers the proposed activity, the District Engineer will analyze whether to apply the categorical exclusion to the proposed activity and apply the categorical exclusion, if appropriate, pursuant to § 333.14(e).

(2) If another agency has already established a categorical exclusion that covers the proposed activity, the District Engineer will consider whether to recommend that the Headquarters, U.S. Army Corps of Engineers adopt that exclusion pursuant to § 333.14(c) so that it can be applied to the proposed activity at issue, and so that Headquarters may consider applying to future activities of that type.

(3) If the proposed activity warrants the establishment of a new categorical

exclusion, or the revision of an existing categorical exclusion, pursuant to § 333.14(b), the Chief of Engineers will consider whether to so establish or revise, and then apply the categorical exclusion to the proposed action pursuant to § 333.14(e).

(4) If the District Engineer cannot apply a categorical exclusion to the proposed activity consistent with paragraphs (a)(1)–(3), the District Engineer will determine the appropriate level of review, *i.e.*, whether the proposed activity warrants preparation of an environmental assessment or an environmental impact statement. Most activities requiring a Corps permit that are not otherwise covered by a categorical exclusion normally require only an environmental assessment. In determining the level of review, the District Engineer will consider the proposed action's reasonably foreseeable effects consistent with paragraph (b), and then will:

(i) develop an environmental assessment, as described in § 333.15, if the proposed activity is not likely to have reasonably foreseeable significant effects or the significance of the effects is unknown; or

(ii) develop an environmental impact statement, as described in § 333.21, if the proposed activity is likely to have reasonably foreseeable significant effects.

(b) When considering whether the reasonably foreseeable effects of the proposed activity are significant, the District Engineer will analyze the potentially affected environment and degree of the effects of the activity within their jurisdiction or control. The District Engineer may use any reliable data source, but will not undertake new research of any type unless it is essential to evaluating alternatives and the cost and time of obtaining it are not unreasonable. District Engineers should not determine that a proposed activity is significant based solely on public interest or opposition.

(1) In considering the potentially affected environment, the District Engineer may consider, as appropriate to the specific activity, the affected area (national, regional, or local) and its resources. The District Engineer may, as appropriate, consider the regulated activity's effect on factors such as conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs,

considerations of property ownership and, in general, the needs and welfare of the people.

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

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

(ii) Both beneficial and adverse effects.

(iii) Effects on public health and safety.

(iv) Economic effects.

§ 333.13 NEPA and agency decision-making.

(a) *Process.* The District Engineer will consider input received in response to the public notice, where public notice is required by the legal authority governing the proposed activity for which authorization is sought, advising interested parties of the proposed activity for which authorization is sought when determining the environmental effects that should be considered in the NEPA analysis. District Engineers will promote efficiency through the adoption or incorporation of existing applicable EAs and EISs and other relevant environmental analysis to the extent practicable. Information developed through the NEPA process will inform the District Engineer's decision on the permit application or request for permission.

(b) *Limitations on actions during the NEPA process.* Except as provided in paragraph (c) of this section, until the Corps issues a record of decision or a finding of no significant impact, or makes a categorical exclusion determination, as applicable, the permit applicant should take no action concerning their application that would:

(1) have an adverse environmental effect within an area under the jurisdiction of the Corps; or

(2) limit the choice of reasonable alternatives.

(c) If the Corps is considering an application from a non-Federal entity and becomes aware that the applicant is about to take an action within the Corps' jurisdiction that would meet either of the criteria in § 333.13(b), the Corps will promptly notify the applicant that the Corps will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

(d) *Coordination with the Applicant.*

(1) The District Engineer will:

(i) Coordinate at the earliest reasonable time in the application review process to inform the applicant what information the District Engineer might need to comply with NEPA and, if the lead agency, establish a schedule

for completing steps in the NEPA review process, consistent with NEPA's statutory deadlines and any internal agency NEPA schedule requirements; and

(ii) Begin the NEPA process by determining whether NEPA applies, as described in § 333.11, and if it does, determine the appropriate level of NEPA review, as described in § 333.12, as soon as practicable after receiving the complete application

(2) The District Engineer may require the applicant to furnish appropriate information that the District Engineer considers necessary for the preparation of an EA or EIS. An applicant or a contractor hired by the applicant may prepare an environmental assessment or environmental impact statement under the District Engineer's supervision. The Corps procedures for applicant-prepared environmental assessments and environmental impact statement are included in § 333.51 of this part.

§ 333.14 Categorical exclusions.

(a) *Generally.* This section describes the process the Corps uses for establishing and revising categorical exclusions, for adopting other agencies' categorical exclusions, and for applying categorical exclusions to a proposed agency action. The Corps categorical exclusions, including Corps categorical exclusions specifically applicable to evaluating applications from other entities for authorization by the Corps established consistent with its NEPA procedures, any legislative categorical exclusions, and categorical exclusions adopted from other agencies, are listed in paragraph (g) in this section.

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

(1) Develop a written record containing information to substantiate its determination;

(2) Consult with CEQ on its proposed categorical exclusion, including the written record, for a period not to exceed 30 days prior to providing public notice as described in paragraph (b)(3) of this section;

(3) Provide public notice in the **Federal Register** of the Corps' establishment or revisions of the categorical exclusion and where the record is available; and

(4) Document the establishment or revision of the categorical exclusion in

the Corps' implementing procedures at § 333.14(g).

(c) Adopting categorical exclusions from other Federal agencies. (1)

Consistent with NEPA section 109, 42 U.S.C. 4336c, the Corps may adopt a categorical exclusion listed in another agency's NEPA procedures. When adopting a categorical exclusion, the Headquarters, U.S. Army Corps of Engineers, in coordination with any recommending Districts, will:

(i) Identify the categorical exclusion listed in another agency's NEPA procedures that covers its category of proposed or related actions;

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

(iii) Provide public notification of the categorical exclusion that the Corps is adopting, including a brief description of the proposed action or category of proposed actions to which the Corps intends to apply the adopted categorical exclusion; and

(iv) Document the adoption of the categorical exclusion in the Corps' implementing procedures at § 333.14(g).

(2) The Corps may rely on another agency's determination that a categorical exclusion applies to a specific proposed activity if the specific activity covered by the original categorical exclusion determination and the Corps' proposed regulatory activity are substantially the same. For the Corps, actions occurring at essentially the same time and place are considered substantially the same when a proposed action would result in a categorical exclusion determination by one agency and an environmental assessment and a finding of no significant impact by another agency. For example, this would be the case when another agency's action may be a funding decision for a proposed project covered by a categorical exclusion established by the funding agency, and the Corps' proposed regulatory action is to consider a permit for construction activities with less than significant adverse environmental effects for that same project. When relying on another agency's determination that a categorical exclusion applies to a specific proposed Corps regulatory activity, the District Engineer will document the reliance on the agency's categorical exclusion determination in the administrative record for the proposal under Corps review.

(d) Removal of categorical exclusions. The Assistant Secretary of the Army for Civil Works must approve the removal of a categorical exclusion from

§ 333.14(g) and, in coordination with the Corps, will:

(1) Develop a written justification for the removal;

(2) Consult with CEQ on its proposed removal of the categorical exclusion, including a description of the rationale for the removal, for a period not to exceed 30 days prior to providing public notice as described in paragraph (d)(3) of this section;

(3) Provide public notice of the Corps' removal of the categorical exclusion and a summary of the justification in the **Federal Register**; and

(4) Document the removal of the categorical exclusion in the Corps' implementing procedures at § 333.14(g).

(e) Applying categorical exclusions.

(1) If the District Engineer determines that a categorical exclusion covers a proposed agency action, they should evaluate the presence of extraordinary circumstances where normally excluded actions could have reasonably foreseeable significant environmental effects. If an extraordinary circumstance is not present, the District Engineer will determine that the categorical exclusion applies to the proposed agency action and conclude review.

(2) If an extraordinary circumstance is present, the District Engineer will determine that the categorical exclusion applies to the proposed agency action and conclude review if the permit applicant modifies the proposed agency action to avoid those effects or if the District Engineer determines that, notwithstanding the extraordinary circumstance, the proposed action is not likely to result in reasonably foreseeable significant effects. If the District Engineer determines that they cannot apply the categorical exclusion to the proposed action, the District Engineer will prepare an environmental assessment or environmental impact statement, as appropriate.

(3) In cases where a single action's constituent parts are covered by multiple categorical exclusions, the District Engineer may conclude the entire action is categorically excluded when there are no extraordinary circumstances present that are likely to result in reasonably foreseeable significant effects, or there are extraordinary circumstances present, but the District Engineer determines that applying a categorical exclusion is appropriate consistent with paragraph (e)(2) of this section.

(4) Documentation of categorical exclusion determinations. The District Engineer will document its evaluation of the applicability of a categorical exclusion in the statement of findings

supporting the permit or permission decision.

(5) The documentation of evaluation of the applicability of a categorical exclusion does not have a prescribed format but should briefly address consideration of any potential extraordinary circumstances and any mitigation measures that reduce the level of impact. The level of analysis should reflect the sensitivity of the resources being impacted and the scale of the activity.

(f) Reliance on categorical exclusion determinations of other agencies. The District Engineer may also rely on another agency's determination that a categorical exclusion applies to a particular proposed activity if the agency action covered by that determination and the proposed activity are substantially the same. The District Engineer will document its reliance on another agency's categorical exclusion determination in the statement of findings supporting the permit or permission decision.

(g) List of categorical exclusions. The following activities normally do not significantly affect the quality of the human environment and are therefore categorically excluded from NEPA documentation:

(1) For permit applications for Clean Water Act, Section 404, River and Harbors Act of 1899, Section 10, and Marine Protection, Research, and Sanctuaries Act of 1972, section 103:

(i) Fixed or floating small private piers, small docks, boat hoists and boathouses.

(ii) Minor utility distribution and collection lines including irrigation;

(iii) Minor maintenance dredging using existing disposal sites;

(iv) Boat launching ramps;

(v) All applications which qualify as letters of permission (as described at 33 CFR 325.5(b)(2)).

(2) In addition to those listed for other permit applications in this section, the District Engineer can rely on the categorical exclusions at 33 CFR 230.9 for requests for permission under 33 U.S.C. 408.

§ 333.15 Environmental assessments.

(a) Generally. If an activity is subject to NEPA, as determined following the procedures in § 333.11, and unless the District Engineer finds that the proposed activity is excluded from having to prepare an environmental assessment or environmental impact statement pursuant to a categorical exclusion as determined following the procedures in § 333.14, or by another provision of law, the District Engineer will prepare an environmental assessment with respect

to the proposed activity that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown. District Engineers must follow Congress' direction that environmental assessments are to be "concise." NEPA section 106(b)(2); 42 U.S.C. 4336(b)(2). The environmental assessment should normally be combined with any other required documents including Clean Water Act, section 404(b)(1) guidelines documentation, any applicable public interest review, any statement of findings, a finding of no significant impact or a determination that an environmental impact statement is required. Environmental assessment as used throughout this part normally refers to this combined document. When the environmental assessment is a separate document, it must be completed prior to completion of the statement of finding. The District Engineer may delegate the signing of the NEPA document. Should the environmental assessment demonstrate that an environmental impact statement is necessary, the District Engineer shall follow the procedures outlined in subpart C of this part. In those cases where an environmental impact statement is required, an environmental assessment is not required. However, the District Engineer must document their reasons for requiring an environmental impact statement.

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

(1) Briefly discuss the:

(i) Purpose and need for the proposed activity based on the Corps' statutory authority. The purpose and need for the proposed activity will also be informed by the applicant's goals (See 33 CFR 333.22 for considerations in developing purpose and need);

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

(A) If the EA confirms that the impact of the applicant's proposal is not significant and there are no unresolved conflicts concerning alternative uses of available resources, and, for activities evaluated under section 404 of the Clean Water Act, the proposed activity is a "water dependent" activity as defined in 40 CFR 230.10(a)(3), the EA need not include a discussion on alternatives.

(B) In all other cases where the district engineer determines that there are unresolved conflicts concerning

alternative uses of available resources, the EA shall include a discussion of the reasonable alternatives which are to be considered. The decision options available to the Corps, which embrace all of the applicant's alternatives, are issue the permit, issue with modifications, or deny the permit. Modifications are limited to those project modifications within the scope of established permit conditioning policy (see 33 CFR 325.4) or within the scope of authority under Section 408. The decision option to deny the permit results in the "no action" alternative (*i.e.* no activity requiring a Corps permit).

(iii) The reasonably foreseeable effects of the proposed activity and the alternatives considered.

(iv) The combined document shall conclude with a finding of no significant impact or a determination that an environmental impact statement is required.

(c) *Agency actions normally requiring an environmental assessment.* Most permits or permissions under the authorities identified in § 333.1(b) normally require environmental assessments, but likely do not require an environmental impact statement.

(d) *Page limits.* (1) The text of an environmental assessment is strictly prohibited from exceeding 75 pages, not including citations or appendices.

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

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

(4) Certification related to page limits. The breadth and depth of analysis in an environmental assessment will be tailored to ensure that the environmental analysis does not exceed this page limit. As part of the finalization of the environmental assessment, the District Engineer will

certify (and the certification will be incorporated into the environmental assessment) that the District Engineer has considered the factors mandated by NEPA; that the environmental assessment represents the Corps' good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects the District Engineer's expert judgment; and that any considerations addressed briefly or left unaddressed were, in the District Engineer's judgment, comparatively not of a substantive nature that meaningfully informed the consideration of environmental effects and the resulting decision on how to proceed.

(e) *Deadlines.* (1) NEPA is governed by a rule of reason. Congress supplied the measure of that reason in the 2003 revision of NEPA by setting the deadlines in NEPA 107(g), 42 U.S.C. 4336a(g). These deadlines indicate Congress's determination that an agency has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances, an extension will be given only for such time as is *necessary* to complete the analysis. Thus, unless otherwise specified in statute, the District Engineer will complete the environmental assessment not later than the date that is one year after the date on which they determine the preparation of an environmental assessment for the proposed activity is required. The District Engineer will typically make this decision at the start of the comment period for the public notice of the permit application, request for permission, or proposed general permit.

(2) The end date is either:

(i) When the District Engineer reaches a permit decision and initially proffers the permit to the applicant or provides permission to the requestor under 33 U.S.C. 408;

(ii) When the District Engineer denies the permit or denies permission under 33 U.S.C. 408 with or without prejudice; or

(iii) When the District Engineer publishes a general permit or categorical permission; or

(iv) When the District Engineer reaches a decision on the mitigation instrument and provides the bank or in-lieu fee program sponsor with an instrument signed by the Corps.

(3) The District Engineer may publish notification of the environmental assessment (unless the deadline is extended pursuant to the provision

below), within a reasonable time after the deadline elapses or the completion of the document, whichever comes first.

(4) **Deadline extensions.** If the District Engineer determines they are not able to meet the deadline prescribed by NEPA section 107(g)(1)(B), 42 U.S.C. 4336a(g)(1)(B), they must consult with the applicant pursuant to NEPA section 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, and for cause stated, the District Engineer may establish a new deadline. Cause for establishing a new deadline is only established if the environmental assessment is so incomplete, at the time at which the District Engineer determines it is not able to meet the statutory deadline, that issuance pursuant to § 333.15(e)(3) above would, in the Corps' view, result in an inadequate analysis. Such new deadline must provide only so much additional time as is necessary to complete such environmental assessment. The District Engineer will document in the administrative record for the proposed action the new deadline the reason why the environmental assessment was not able to be completed under the statutory deadline and whether the applicant consented to the new deadline.

(5) **Certification related to deadline.** When the environmental assessment is complete, the District Engineer will certify (and the certification will be incorporated into the environmental assessment) that the resulting environmental assessment represents the Corps' good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; that, in the District Engineer's expert opinion, they have thoroughly considered the factors mandated by NEPA; and that, in the District Engineer's judgment, the analysis contained therein is adequate to inform and reasonably explain the District Engineer's final decision regarding the proposed Federal activity.

§ 333.16 Findings of no significant impact.

(a) The District Engineer will prepare a finding of no significant impact if the District Engineer determines, based on the environmental assessment, not to prepare an environmental impact statement because the proposed activity will not have significant effects. The finding of no significant impact will:

(1) Be included in the environmental assessment;

(2) Document the reasons why the District Engineer has determined that the selected alternative will not have a significant effect on the quality of the human environment;

(3) If the District Engineer finds no significant effects based on mitigation, the mitigated finding of no significant impact will state any mitigation requirements enforceable by the agency or voluntary mitigation commitments that will be undertaken by the applicant to avoid significant effects;

(4) Identify any other documents related to the finding of no significant impact; and

(5) State that the District Engineer will not prepare an environmental impact statement, concluding the NEPA process for that permit application, request for permission, or mitigation instrument.

(b) The District Engineer may publish notification of the environmental assessment and finding of no significant impact on a public website.

§ 333.17 Lead and cooperating agencies.

(a) *Corps as lead agency.* In many instances, a proposed activity or decision is undertaken in the context which entails activities or decisions undertaken by other Federal agencies (e.g., where multiple Federal authorizations are required with respect to a project sponsor's overall purpose and goal). These activities and decisions may be "related actions," in that they are each the responsibility of a particular agency and they may be all related in a matter relevant to NEPA, e.g., by their relationship with one overarching project. In such instances, Congress has provided that the multiple agencies involved shall determine which of them will be the lead agency pursuant to the criteria identified in NEPA section 107(a)(1)(A), 42 U.S.C. 4336a(a)(1)(A), or any other applicable statute. When serving as the lead agency, the Corps is responsible for managing the NEPA process, including those portions of a non-Federal applicant's proposed project which come under the jurisdiction of other Federal agencies. When serving as the lead agency, the Corps will also determine and document the scope of analysis. When a joint lead relationship is established pursuant to NEPA section 107(a)(1)(B), 42 U.S.C. 4336a(a)(1)(B), the Corps and the other joint lead agency or agencies are collectively responsible for completing the NEPA process. The Corps may reimburse, under agreement, staff support from other Federal agencies beyond the immediate jurisdiction of those agencies.

(b) *Corps as cooperating agency.* As a cooperating agency the Corps will be responsible to the lead agency for providing environmental information which is directly related to the regulatory matter involved and which is

required for the preparation of the NEPA documentation. This in no way shall be construed as lessening the District Engineer's ability to request the applicant to furnish appropriate information as discussed in § 333.51 of this part. The District Engineer will identify to the lead agency the information and analysis that is required to be included in the resulting NEPA documentation so that it can be relied on by the Corps for purposes of exercising its permitting authority. When the Corps is a cooperating agency because of a regulatory responsibility, the district engineer should make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability provided the request pertains to the Corps regulatory action covered by the NEPA document, to the extent this is practicable. Beyond this, Corps staff support will generally be made available to the lead agency to the extent practicable within its own responsibility and available resources. Any assistance to a lead agency beyond this will normally be by written agreement with the lead agency providing for the Corps expenses on a cost reimbursable basis. If the District Engineer believes a public hearing should be held and another agency is lead agency, the District Engineer should request such a hearing and provide their reasoning for the request. The District Engineer should suggest a joint hearing and offer to take an active part in the hearing and ensure coverage of the Corps concerns. When the applicant's proposed activities qualify for an existing general permit or categorical permission, the Corps' obligations under NEPA were satisfied when the Corps issued the general permit or categorical permission. On this basis, Corps contributions as a cooperating agency on an environmental impact statement or environmental assessment should be limited to assisting the lead agency with accurate information pertaining to the proposed impacts under Corps authorities.

§ 333.18 Notices of intent and scoping.

(a) *Notice of intent.* As soon as practicable after determining that a proposed activity for which Corps authorization is sought is sufficiently developed to allow for meaningful public comment and requires an environmental impact statement, the District Engineer will publish a notice of intent to prepare an environmental impact statement.

(1) The notice of intent for an environmental impact statement will include a request for public comment on alternatives or effects and on relevant

information, studies, or analyses with respect to the proposed agency action.

(2) In addition to a request for comment required for notices of intent for environmental impact statements, notice of intent for any environmental document may include:

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

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

(iii) A brief summary of expected effects;

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

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

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

(vii) Contact information for the project manager handling the permit application, who can answer questions about the proposed action and the environmental impact statement; and

(viii) Identification of any cooperating and participating agencies (*i.e.*, agencies responsible for related actions), and any information that such agencies require in the notice to facilitate their decisions or authorizations

(b) *Scoping*. In addition to the notice of intent process described above, the District Engineer may also use other early and open processes to determine the scope of issues for analysis in an environmental document, including substantive issues that meaningfully inform the consideration of environmental effects and the resulting decision on how to proceed, eliminating from further study non-substantive issues, and determining whether connected actions should be addressed in the same environmental document. Scoping may begin as soon as practicable after the proposal for action is sufficiently developed for consideration. Scoping may include appropriate pre-application procedures, public meetings, or work conducted prior to publication of the notice of intent.

(c) *Scope of analysis*. It is the exclusive responsibility of the District Engineer to determine the appropriate scope of analysis for the applicant's proposed activity based on the Corps' legal authority over the activity and whether the Corps has sufficient control and responsibility over any aspect of the applicant's proposed activity beyond the Corps' limited statutory authorities. When determining the scope of an environmental assessment or an environmental impact statement, the

District Engineer must consider the following:

(1) In some situations, a permit applicant may propose to conduct a specific activity requiring a Department of the Army (DA) permit (*e.g.*, construction of a pier in a navigable water of the United States), which is merely one component of a larger project (*e.g.*, construction of an oil refinery on an upland area). The district engineer should establish the scope of the Corps' NEPA review to address the impacts of the specific activity requiring a DA permit or 33 U.S.C. 408 permission and those portions of the entire project over which the district engineer has sufficient control, responsibility, and legal authority to warrant Federal review.

(2) The District Engineer is considered to have control, responsibility, and legal authority for portions of the project beyond the limits of Corps jurisdiction where the Federal involvement is sufficient to turn an essentially private action into a Federal action, consistent with Congress's exclusions from the definition of "major Federal action" at NEPA Section 111(10) and the Supreme Court's holding in *Seven County* that NEPA does not require an agency to analyze effects from actions beyond the action the agency itself is taking or authorizing. These are cases where the environmental consequences of the larger project are essentially products of the Corps permit or 33 U.S.C. 408 permission action. Typical factors to be considered in determining whether sufficient control, responsibility, and legal authority exist to turn an essentially private action occurring outside of Corps jurisdiction into a Federal action include:

(i) Whether or not the regulated activity comprises merely a link in a corridor type project (*e.g.*, a transportation or utility transmission project).

(ii) Whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity.

(iii) The extent to which the entire project will be within Corps jurisdiction.

(iv) The extent of cumulative Federal control, responsibility, and legal authority.

(A) Federal control, responsibility, and legal authority will include the portions of the project beyond the limits of Corps jurisdiction where the cumulative Federal involvement of the Corps and other Federal agencies is sufficient to grant legal control over such additional portions of the project.

These are cases where the environmental consequences of the additional portions of the projects are essentially products of Federal financing, assistance, direction, regulation, or approval (not including funding assistance solely in the form of general revenue sharing funds, with no Federal agency control over the subsequent use of such funds, and not including judicial or administrative civil or criminal enforcement actions).

(B) In determining whether sufficient cumulative Federal involvement exists to expand the scope of Federal action the district engineer should consider whether other Federal agencies are required to take Federal action under their statutory authorities, and/or other environmental review laws and executive orders.

(C) The District Engineer should also refer to § 333.17 of this part for guidance on determining whether the Corps should be the lead or a cooperating agency in these situations.

(3) Examples:

(i) If a non-Federal oil refinery, electric generating plant, or industrial facility is proposed to be built on an upland site and the only DA permit or 33 U.S.C. 408 permission requirement relates to a connecting pipeline, supply loading terminal, or fill road, that pipeline, terminal or fill road permit, in and of itself, normally would not constitute sufficient overall Federal involvement with the project to justify expanding the scope of a Corps NEPA document to cover upland portions of the facility beyond the structures in the immediate vicinity of the regulated activity that would affect the location and configuration of the regulated activity.

Similarly, if an applicant seeks a DA permit to fill waters or wetlands or 33 U.S.C. 408 permission to alter a covered project on which other construction or work is proposed, the control, responsibility, and legal authority of the Corps, as well as its overall Federal involvement, would extend to the portions of the project to be located on the permitted fill or within the boundary of the project covered by 33 U.S.C. 408. However, the NEPA review would be extended to the entire project, including portions outside waters of the United States or the project area covered by 33 U.S.C. 408, only if sufficient Federal control, responsibility, and legal authority over the entire project is determined to exist; that is, if the regulated activities, and those activities involving regulation, funding, etc., by other Federal agencies, comprise a substantial portion of the overall project. In any case, once the scope of

analysis has been defined, the NEPA analysis for that action should include the effects or impacts from the proposed action or alternatives on all Federal interests within the purview of the NEPA statute. The District Engineer should, whenever practicable, incorporate by reference and rely upon the reviews of other Federal, State, Tribal, and local agencies.

(ii) For those regulated activities that comprise merely a link in a transportation or utility transmission project, the scope of analysis should address the Federal action, *i.e.*, the specific activity requiring a DA permit or 33 U.S.C. 408 permission and any other portion of the project that is within the control, responsibility, and legal authority of the Corps of Engineers (or other Federal agencies).

For example, a 50-mile electrical transmission cable crossing a 1 ¼ mile-wide river that is a navigable water of the United States requires a DA permit. Neither the origin nor the destination of the cable, nor its route to and from the navigable water, except as the route applies to the location and configuration of the crossing, are within the control, responsibility, or legal authority of the Corps. Those matters would not be included in the Corps' scope of analysis which, in this case, would address the impacts of the specific cable crossing.

As another example, the same 50-mile electrical transmission cable crossing a Corps civil works project requires a 33 U.S.C. 408 permission. As with the previous example, neither the origin nor the destination of the cable, nor its route to and from the civil works project, except as the route applies to the location and configuration of the crossing within the civil works project, are within the control, responsibility, or legal authority of the Corps. Those matters would not be included in the Corps' scope of analysis which, in this case, would address the impacts of the specific cable crossing on the Corps civil works project.

Conversely, for those activities that require a DA permit or 33 U.S.C. 408 permission for a major portion of a transportation or utility transmission project, such that the Corps permit or 33 U.S.C. 408 permission bears upon the origin and destination as well as the route of the project outside the Corps regulatory boundaries (including those covered by 33 U.S.C. 408), the scope of analysis should include those portions of the project outside the boundaries of the Corps jurisdiction. To use the same example, if 30 miles of the 50-mile transmission line would cross jurisdictional wetlands, other "waters of the United States," or Corps civil works

boundaries covered by 33 U.S.C. 408, the scope of analysis should reflect impacts of the whole 50-mile transmission line.

(iii) For those activities that require a DA permit for a major portion of a shoreside facility, the scope of analysis should extend to upland portions of the facility. For example, a shipping terminal normally requires dredging, wharves, bulkheads, berthing areas, and disposal of dredged material in order to function. Permits for such activities are normally considered sufficient Federal control, responsibility, and legal authority to warrant extending the scope of analysis to include the upland portions of the facility.

(4) In all cases, the scope of analysis used for analyzing both impacts and alternatives should be the same scope of analysis used for analyzing the benefits of a proposal.

(5) In preparing the environmental assessment or environmental impact statement, the District Engineer will focus its analysis on whether the environmental effects of the regulated activity are significant.

(i) Similarly, the District Engineer will document in the environmental assessment or environmental impact statement where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the regulated activity that extend outside the geographical territory of the project or might materialize later in time.

(ii) To the extent it assists in reasoned decision-making, the District Engineer may, but is not required to by NEPA, analyze environmental effects from other projects separate in time, or separate in place, or that fall outside of the Corps' regulatory authority, or that would have to be initiated by a third party. If the District Engineer determines that such analysis would assist it in reasoned decisionmaking, it will document this determination in the environmental assessment and explain where it drew a reasonable and manageable line relating to the consideration of such effects from such separate projects.

Subpart C—Environmental Impact Statements

§ 333.20 Significance determination.

(a) *General.* Prior to initiating an environmental impact statement, the District Engineer must determine the proposed activity is likely to have reasonably foreseeable significant effects on the quality of the human environment, after consideration of any mitigation the Corps may require. As

described in § 333.12(a)(5)(i) and § 333.15 of this part, this determination can be made following the completion of an environmental assessment in cases where that environmental assessment cannot conclude in a finding of no significant impact; in other situations, it can be made without first preparing an environmental assessment in instances where initial consideration as to the appropriate level of review as described indicates that the proposed activity is likely to have reasonably foreseeable significant effects. In cases where it is obvious that the proposed activity is likely to result in reasonably foreseeable significant effects and an environmental assessment terminating in a finding of no significant impact is therefore not prepared, the District Engineer must make a determination that an environmental impact statement is required due to the likely significant effects of the activity. This determination will be made in accordance with § 333.12(b) and documented. Whether an impact rises to the level of significant is a matter of the District Engineer's expert judgment.

(b) *Timing.* The determination to prepare an environmental impact statement should be made as soon as the Corps has sufficient information to consider on whether the project would result in significant effects on the human environment, after consideration of any mitigation the Corps would require. In many cases this is soon after the receipt of a complete DA permit application or request for permission, although in some cases a determination may not be made until after an environmental assessment has been prepared. After a determination has been made to prepare an environmental impact statement as the lead agency, the Corps will notify the applicant in writing as soon as practicable.

§ 333.21 Preparation of environmental impact statements.

(a) During the process of preparing an environmental impact statement, the District Engineer:

(1) Will contact all appropriate Federal agencies to determine their respective role(s), *i.e.*, that of lead agency or cooperating agency consistent with § 333.17 of this part.

(2) Will obtain the comments of:

(i) Any Federal agency that has specific statutory jurisdiction or special expertise identified in statute with respect to any environmental impact involved or is authorized to develop and enforce environmental standards. The District Engineer shall only consider comments directly tied to the commenting Federal agency's specific

statutory jurisdiction or special expertise identified in statute and relevant to impacts or issues within the scope of analysis as determined by the District Engineer. The District Engineer shall only include those comments in the permit or 33 U.S.C. 408 permission administrative file and record.

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

(3) May request the comments of:

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

(ii) Any Federal agency that has requested it receive statements on actions of the kind proposed to the extent the comments are directly tied to that agency's statutory jurisdiction or special expertise as identified in statute;

(iii) The applicant, and

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

(b) This process of obtaining and requesting comments pursuant to paragraph (a) of this section may be undertaken at any time that is reasonable in the process of preparing the environmental impact statement. The District Engineer will ensure the process of obtaining and request comments pursuant to paragraph (a) of this part, and the District Engineers' analysis of and response to those comments, does not cause the Corps to violate the congressionally mandated deadline for completion of an environmental impact statement.

(c) The District Engineer will address any substantive and significant comments received consistent with paragraph (a) of this section in the environmental impact statement. Such responses to comments will be documented and may include:

(1) Modifying alternatives, including the proposed activity.

(2) Developing and evaluating alternatives not previously given serious consideration.

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

(4) Making factual corrections.

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

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

(ii) There is no cause-effect relationship between the actions the

agency is proposing and the issue raised and/or recommendation made;

(iii) The commenter misinterpreted the information provided; or

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

(d) In those instances in which the District Engineer solicits comments from the public, the request for comments will provide clear instructions on how comments should be submitted, including electronic submission, and the dates during which comments will be accepted. The solicitation of comments should include requests for comments on specific questions or issues or for information that would be helpful in informing the District Engineer's decision.

(e) If the District Engineer determines that an environmental impact statement is not required after a notice of intent has been published, the District Engineer shall terminate the environmental impact statement preparation and withdraw the notice of intent. The District Engineer shall notify in writing the appropriate Division Engineer; Headquarters U.S. Army Corps of Engineers; any appropriate federal agencies; and the public of the determination.

§ 333.22 Purpose and need.

(a) The statement will include the purpose and need for the proposed agency action based on the Corps' statutory authority and independent judgment. The purpose and need for the proposed agency action must be informed by the goals of the applicant. The applicant may provide a statement of the purpose and need from their perspective, but the District Engineer will exercise independent judgment in defining the purpose and need for the project.

(b) If the scope of analysis for the NEPA document (see § 333.18(b) of this part) covers only the proposed specific activity requiring a Department of the Army permit or 33 U.S.C. 408 permission, then the underlying purpose and need for that specific activity should be stated. (For example, "The purpose and need for the pipe is to obtain cooling water from the river for the electric generating plant.")

(c) If the scope of analysis covers a more extensive project, only part of which may require a DA permit or 33 U.S.C. 408 permission, then the underlying purpose and need for the entire project should be stated. (For example, "The purpose and need for the electric generating plant is to provide

increased supplies of electricity to the (named) geographic area.")

§ 333.23 Analysis within the environmental impact statement.

(a) The Corps is neither an opponent nor proponent of the applicant's proposal; therefore, the applicant's final proposal will be identified as the "applicant's preferred alternative" in the final EIS. Decision options available to the District Engineer, which embrace all of the applicant's alternatives, are issue the permit, issue with modifications or conditions, or deny the permit.

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

(1) Reasonably foreseeable environmental effects of the applicant's preferred alternative;

(2) Any reasonably foreseeable adverse environmental effects which cannot be avoided should the applicant's preferred alternative be implemented;

(3) A reasonable range of alternatives to the applicant's preferred alternative, including an analysis of any negative environmental impacts of not implementing the applicant's preferred alternative in the case of a no action alternative.

(i) Only reasonable alternatives need be considered in detail. Reasonable alternatives must be those that are, in the District Engineer's expert judgment, technically, legally, and economically feasible and such feasibility must focus on the accomplishment of the underlying purpose and need.

(ii) The alternatives analysis should be thorough enough to use the 404(b)(1) guidelines (40 CFR part 230) where applicable.

(iii) Those alternatives that are unavailable to the applicant, whether or not they require Federal action (permits), should normally be included in the analysis of the no-Federal-action (denial) alternative.

(iv) The EIS should discuss geographic alternatives, *e.g.*, changes in location and other site-specific variables, and functional alternatives, *e.g.*, project substitutes and design modifications.

(v) The "no-action" alternative is one which results in no construction requiring a Corps permit or permission. It may be brought by either the applicant electing to modify their proposal to eliminate work under the jurisdiction of the Corps or by the denial of the permit or permission. District engineers, when evaluating this alternative, should discuss, when appropriate, the consequences of other

likely uses of a project site, should the permit be denied.

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

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

(6) Any means identified to mitigate adverse environmental effects of the proposed action. (To note, NEPA itself does not require or authorize the Corps to impose any mitigation measures); and

(7) Such alternatives should be evaluated only to the extent necessary to allow a complete and objective evaluation and a fully informed decision regarding the permit application or request for permission.

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

(c) The District Engineer will not include a cost-benefit analysis for projects requiring a Corps permit or permission, but may indicate any cost considerations relevant to the permit decision or 33 U.S.C. 408 permission decision.

§ 333.24 Page limits.

(a) *Page limits.* Except as provided in paragraph (b) of this section, the text of an environmental impact statement will not exceed 150 pages, not including citations or appendices.

(b) An environmental impact statement for a proposed agency action of extraordinary complexity is strictly prohibited from not exceeding 300 pages, not including any citations or appendices. The District Engineer will determine at the earliest possible stage of preparation of an environmental impact statement whether the conditions for exceeding the page limit in paragraph (a) of this section are present. Factors that may indicate extraordinary complexity include: a geographically expansive project that affects multiple resource types; numerous alternatives that must be considered; involves a long time period

for implementation; impacts multiple sensitive resources; involve authorization decisions by multiple agencies.

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

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

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

§ 333.25 Deadlines.

(a) NEPA is governed by a "rule of reason." Congress supplied the measure of that reason in the 2023 revision of NEPA by settling the deadlines in NEPA 107(g), 42 U.S.C. 4336a(g). These deadlines indicate Congress's determination that an agency, working with Congress's allocation of resources has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances, an extension will be given only for such time as is *necessary* to complete the analysis. Thus, unless otherwise specified in statute, the District Engineer will complete the

environmental impact statement not later than the date that is two years after the date on which the District Engineer determines that the activity requires the issuance of an environmental impact statement.

(b) The end date is either:

(1) When the District Engineer reaches a decision and initially proffers the permit to the applicant or provides the requestor 33 U.S.C. 408 permission; or

(2) When the District Engineer denies the permit or denies permission under 33 U.S.C. 408 with or without prejudice.

(c) The District Engineer will publish the environmental impact statement.

(d) If the District Engineer determines they are not able to meet the deadline prescribed by NEPA section 107(g)(1)(A), 42 U.S.C. 4336a(g)(1)(A), they must consult with the applicant pursuant to NEPA section 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, and for cause stated, the District Engineer may establish a new deadline and must notify the Division Engineer and Headquarters, U.S. Army Corps of Engineers of the deadline extension. Cause for establishing a new deadline is only established if the environmental impact statement is so incomplete, at the time at which the District Engineer determines they are not able to meet the statutory deadline, that issuance pursuant to paragraph (c) of this section above would, in the District Engineer's view, result in an inadequate analysis. Such new deadline must provide only so much additional time as is necessary to complete such environmental impact statement. The District Engineer will document in the administrative record for the proposed action the new deadline, the reason why the environmental impact statement was not able to be completed under the statutory deadline, when the District Engineer consulted with the applicant on the new deadline, and whether the applicant consented to the new deadline.

(e) When the environmental impact statement is published, the District Engineer will certify (and the certification will be incorporated into the environmental impact statement) that the resulting environmental impact statement represents the Corps' good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; and that, in the District Engineer's expert opinion, they have thoroughly considered the factors mandated by NEPA; and that, in the District Engineer's judgment, the analysis contained therein is adequate to inform and reasonably explain the

District Engineer's decision regarding the proposed Federal activity. .

§ 333.26 Publication of the environmental impact statement.

The District Engineer will publish the entire environmental impact statement on a publicly available website. During the process of preparing the environmental impact statement, the District Engineer may publish a draft statement or other materials that in their judgment may assist in fulfilling their NEPA responsibilities.

§ 333.27 Public hearing.

If a public hearing is to be held pursuant to 33 CFR part 327, or any other authority, for a permit application requiring an environmental impact statement, the actions analyzed by the environmental impact statement should be considered at the public hearing. The District Engineer can, but need not, make a draft of the environmental impact statement available to the public and, in instances where the District Engineer does so, should do so at least 15 days in advance of the hearing. If a hearing request is received from another agency having jurisdiction over an element of the applicant's activity, the district engineer should coordinate a joint hearing with that agency whenever appropriate.

§ 333.28 Comments received on an environmental impact statement.

For permit applications or requests for permissions to be decided at the district level, the District Engineer should consider incoming comments and provide responses in the environmental impact statement when substantive issues are raised. For permit applications or requests for permissions to be decided at a higher authority, the District Engineer shall forward any comment letters together with appropriate responses to the higher authority.

§ 333.29 Review of other agencies' environmental impact statements.

District Engineers should provide comments directly to the requesting agency specifically related to the Corps jurisdiction by law or special expertise. If the District Engineer determines that another agency's environmental impact statement which involves a Corps permit or permission action is inadequate with respect to the Corps permit or permission action, the district engineer should attempt to resolve the differences concerning the Corps permit or permission action prior to the filing of the environmental impact statement by the other agency.

Subpart D—Efficient Environmental Reviews

§ 333.31 Tiered and programmatic environmental documents.

(a) Activities that require Corps authorization under 33 U.S.C. 1344, 33 U.S.C. 401, 33 U.S.C. 403, and 33 U.S.C. 1413 are reviewed (and when applicable, permitted) on a site-specific basis based upon an application containing a complete description of the proposed activity, and all activities which the applicant plans to undertake which are reasonably related to the same project and for which a Corps permit will be required. See 33 CFR 325.1(d)(1)–(2). However, only for reviews of activities under 33 U.S.C. 408, the District Engineer may prepare tiered environmental documents when conducting multi-phased reviews of proposed alterations or in other appropriate circumstances. Multi-phased reviews under 33 U.S.C. 408 evaluate proposed alterations in multiple successive iterations of progressively greater detail. Each successive review must be accompanied by a NEPA document that considers the potential impacts of the alteration at the level of detail of the given phase of review to help inform the development of the proposed alteration. The analysis in each environmental document will reflect the level of planning in each tier. For example, the first tier may consider the differing impacts of selecting different sites for the alteration, the second tier may consider different project configurations, and the final tier may consider the impacts from different construction methods. Each successive analysis should build off the previous analysis, formally incorporating the prior environmental documents.

(b) After completing a programmatic environmental assessment or environmental impact statement for a review under 33 U.S.C. 408, the District Engineer may rely on that document for 5 years if there are not substantial new circumstances or information about the significance of adverse effects that bear on the analysis. After 5 years, as long as the District Engineer reevaluates the analysis in the programmatic environmental document and any underlying assumption to ensure reliance on the analysis remains valid and briefly documents its reevaluation and explains why the analysis remains valid considering any new and substantial information or circumstances, the District Engineer may continue to rely on the document.

§ 333.32 Reliance on existing environmental documents.

(a) *Generally.* The District Engineer may rely on an environmental impact statement, environmental assessment, or portion thereof, provided that the statement, assessment, or portion thereof meets the standards for an adequate statement or assessment under these procedures. When relying on an environmental impact statement, environmental assessment, or portion thereof, the District Engineer will cite, briefly describe the content and relevance to the environmental document, and may make modifications that are necessary to render the relied-upon document, or portion thereof, fit for fulfilling NEPA's analytic requirements for the action. If the District Engineer finds that the other agency's environmental impact statement or environmental assessment is inadequate with respect to the Corps permit or permission action, the District Engineer should incorporate the other agency's NEPA document or a portion thereof and prepare an appropriate and adequate NEPA document to address the Corps involvement with the proposed action.

(b) *Substantial similarity.* (1) If the actions covered by the original environmental impact statement or environmental assessment and the proposed action are substantially the same, the District Engineer will document their reliance on the statement or assessment.

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

§ 333.33 Incorporation.

The District Engineer may incorporate material, such as planning studies, analyses, or other relevant information, into environmental documents by reference when the effect will be to cut down on bulk without impeding the Corps review of the action. When incorporating material by reference, the District Engineer will cite, briefly describe the content and relevance to

the environmental document, and make the materials reasonably available for review by potentially interested parties. The District Engineer will not use incorporation as a means to evade the statutory page limits.

§ 333.34 Supplements to environmental documents.

The District Engineer will prepare supplements to environmental documents only if a major Federal action remains to occur, and:

(a) The applicant makes substantial changes to the proposed action that are relevant to environmental concerns; or

(b) The District Engineer decides, in their discretion, that there are substantial significant new circumstances or information about the significance of the adverse effects that bear on the proposed action or its effects.

§ 333.35 Integrity and completeness of information.

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

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

§ 333.36 Integrating NEPA with other environmental requirements.

(a) To the fullest extent possible, the District Engineer will prepare environmental documents concurrently with and integrated with analyses and related surveys and studies required by other Federal statutes. In appropriate instances, the District Engineer may participate in preparing single environmental assessment, finding of no significant impact, environmental impact statement, and Record of Decision documents.

(b) The District Engineer will combine an environmental document prepared in compliance with NEPA with any other agency document to reduce duplication and paperwork. Thus, the District Engineer may combine an environmental document with related plans, rules, or amendments as a single consolidated document.

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

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

(a) The District Engineer will, where appropriate, cooperate with State, Tribal, and local agencies that are responsible for preparing environmental documents.

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

(1) Joint planning processes;

(2) Joint environmental research and studies;

(3) Joint public hearings (except where otherwise provided by statute); or

(4) Joint environmental documents.

§ 333.38 Unique identification numbers.

For all environmental documents, the District Engineer will provide a unique identification number for tracking purposes, which the District Engineer will reference on all associated environmental review documents prepared for the proposed agency action and in any database or tracking system for such documents. The District Engineer will coordinate with the CEQ and other Federal agencies to ensure uniformity of such identification numbers across Federal agencies.

§ 333.39 Emergency procedures.

In responding to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses, district commanders may proceed without the specific documentation and procedural requirements of other sections of this regulation. District Engineers shall consider the probable environmental consequences in determining appropriate emergency actions and when requesting approval to proceed on emergency actions, will describe proposed NEPA documentation or reasons for exclusion from documentation. NEPA documentation should be accomplished prior to initiation of emergency work if time

constraints render this practicable. Such documentation may also be accomplished after the completion of emergency work, if appropriate. When possible, emergency actions considered major in scope with potentially significant environmental impacts shall be referred through the Division Engineers to Headquarters, U.S. Army Corps of Engineers for consultation with CEQ about NEPA alternative arrangements.

Subpart E—Agency Decision Making

§ 333.41 Decision documents.

At the time of its decision on its proposed action, the Corps may prepare and timely publish a concise public decision document notifying the public that the District Engineer has certified that the Corps has considered all relevant information raised in the NEPA process and that the NEPA process has closed. To avoid duplication, a finding of no significant impact may reference the environmental assessment and a record of decision may reference the environmental impact statement. The decision document prepared for NEPA compliance informs the final agency action of making the decision on the permit application or the request for permission under 33 U.S.C. 408(a) but is not the final agency action.

§ 333.42 Filing requirements.

The District Engineer will file environmental impact statements together with comments and any responses with the Environmental Protection Agency (EPA), Office of Federal Activities for publication in the **Federal Register**.

Subpart F—Procedures for Applicant-Prepared NEPA Documents

§ 333.51 Procedures for applicant-prepared environmental documents.

The District Engineer may require the applicant to furnish appropriate information that the district engineer considers necessary for the preparation of an EA or EIS. The District Engineer may prepare an EA or an EIS, or may obtain information needed to prepare an EA or an EIS, either with Corps staff or by third-party contract. In accordance with NEPA section 107(f), 42 U.S.C. 4336a(f), the Corps has established procedures allowing applicants, or contractors hired by applicants, to prepare environmental assessments and environmental impact statements documents under the District Engineer supervision.

(a) The District Engineer will independently evaluate the environmental document and will take

responsibility for its contents. The District Engineer is responsible for ensuring that the information provided by the applicant-hired contractor is consistent with Corps' need to take a hard, objective look at the public interest and environmental factors consistent with its statutory requirements.

(b) The District Engineer will assist applicants and applicant-hired contractors by providing guidance and outlining the types of information required for the preparation of the environmental document. Third party contracting is the primary method for preparing all or part of environmental impact statements covered by this part. The District Engineer may also provide appropriate guidance and assist in environmental document preparation, to the extent that the District Engineer's resources and policy priorities allow. The District Engineer will work with the applicant to define the purpose and need, and, when appropriate, to develop a reasonable range of alternatives to meet that purpose and need.

(c) The District Engineer will work develop and modify, as appropriate, a schedule for preparation of the environmental document. Major changes to the schedule or related matters will be documented through written correspondence.

(d) The District Engineer may request from an applicant environmental information for use by the Corps in preparing or evaluating an environmental document. This may include a decision file consisting of any factual, scientific, or technical information used, developed, or considered by the applicant or applicant-hired contractor in the course of preparing the environmental document, including any correspondence with the Corps or with third parties.

(e) The applicant may accept or reject the District Engineer's guidance. The District Engineer, however, may after specifying the information in contention, require the applicant to resubmit any previously submitted data which the District Engineer considers inadequate or inaccurate. The District Engineer must document in the record the Corps' independent evaluation of the information and its accuracy.

Subpart G—Definitions

§ 333.61 Definitions.

As used in these implementing procedures, terms have the meanings provided in NEPA section 111, 42 U.S.C. 4336e. In addition:

(a) *NEPA* means the National Environmental Policy Act, as amended (42 U.S.C. 4321, *et seq.*).

(b) *Authorization* means a permit or permission.

(c) *Connected action* means a separate Federal action within the Corps' authority that is closely related to the proposed agency action and should be addressed in a single environmental document because the proposed agency action:

(1) Automatically triggers the separate Federal action, which independently would require the preparation of additional environmental documents;

(2) Cannot proceed unless the separate Federal action is taken previously or simultaneously; or

(3) Is an interdependent part of a larger Federal action that includes a separate Federal action, which mutually depend on the larger Federal action for their justification.

(d) *Effects or impacts* means changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives.

(1) Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects. Effects appropriate for analysis under NEPA may be either beneficial or adverse, or both, with respect to these values.

(2) A "but for" causal relationship is insufficient to make an agency responsible for a particular effect under NEPA. Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include those effects that the agency has no ability to prevent due to the limits of its regulatory authority, or that would occur regardless of the proposed action, or that would need to be initiated by a third party.

(e) *Human environment* means comprehensively the natural and physical environment and the relationship of Americans with that environment. (See also the definition of "effects or impacts" in paragraph (c) of this section.)

(f) *Jurisdiction* means the specific legal authority to approve an activity, such as 33 U.S.C. 1344 (Clean Water Act, section 404); 33 U.S.C. 401 (Rivers and Harbors Act of 1899, section 9); 33 U.S.C. 403 (Rivers and Harbors Act of 1899, section 10); and 33 U.S.C. 1413 (Marine Protection, Research, and Sanctuaries Act of 1972, section 103) or

33 U.S.C. 408 (Rivers and Harbors Act of 1899, section 14).

(g) *Mitigation* for the purposes of NEPA means measures that avoid, minimize, or compensate for effects caused by a proposed action or alternatives as described in an environmental document or record of decision and that have a nexus to those effects. While NEPA requires consideration of mitigation, it does not mandate the form or adoption of any mitigation. Mitigation includes:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action.

(2) Minimizing effects by limiting the degree or magnitude of the action and its implementation.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(5) Compensating for the impact by replacing or providing substitute resources or environments.

(h) *NEPA process* means all measures necessary for compliance with the requirements of NEPA section 102(2), 42 U.S.C. 4332(2).

(i) *Notice of intent* means a public notice that an agency will prepare and consider an environmental document.

(j) *Participating agency* means a Federal, State, Tribal, or local agency participating in an environmental review or authorization of an action.

(k) *Permit*, as used in this part, is the authorization described in 33 CFR 325.5 or the document granting Corps permission under 33 U.S.C. 408(a). A permit decision is the final agency action.

(l) *Publish* and *publication* mean methods found by the agency to efficiently and effectively make environmental documents and information available for review by interested persons, including electronic publication.

(m) *Reasonable alternatives* means a reasonable range of alternatives that are technically, legally, and economically feasible, meet the purpose and need for the proposed action, and, where applicable, meet the goals of the applicant.

(n) *Reasonably foreseeable* means sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.

(o) *Related action* means an action undertaken by an agency, e.g., a permitting action, some other type of authorization action, an analysis required by statute, or the like, that

bears a relationship to other actions undertaken by other agencies relevant to NEPA, *e.g.*, that a set of related actions are all related to one overarching project.

(p) *Scope* consists of the range of actions, alternatives, and effects subject to the Corps legal authority or subject to the Corps control and responsibility that should be considered in an environmental document. This part addresses the considerations for use by District Engineers when determining scope for NEPA compliance in § 333.18 of this part.

(q) *Tiering* when used for the purposes of multi-phased reviews of activities under 33 U.S.C. 408, refers to the coverage of general matters in broader environmental impact statements or environmental assessments (such as a general plan to address a need that identifies different conceptual options) with subsequent narrower or more detailed statements or environmental analyses (such as an analysis of how one of those conceptual options could be implemented at a specific site) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared.

Subpart H—Severability

§ 333.71 Severability.

The sections of this part are separate and severable from one another. If any section or portion therein is stayed or determined to be invalid, or the applicability of any section to any person or entity is held invalid, it is the Corps' intention that the validity of the remainder of those parts will not be affected. The remaining sections or portions, and all applications thereof, shall continue to be in effect.

Approved by:

D. Lee Forsgren,

Acting Assistant Secretary of the Army (Civil Works).

[FR Doc. 2025–12360 Filed 7–1–25; 2:30 pm]

BILLING CODE 3720–58–P

POSTAL SERVICE

39 CFR Part 955

Rules of Practice Before the Postal Service Board of Contract Appeals; Corrections

AGENCY: Postal Service.

ACTION: Correcting amendments.

SUMMARY: On June 18, 2025, the Postal Service amended the rules of practice

that govern all proceedings before the Postal Service Board of Contract Appeals. That document inadvertently misnumbered a paragraph. This document corrects the error.

DATES: Effective July 3, 2025.

ADDRESSES: Postal Service Judicial Officer Department, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

FOR FURTHER INFORMATION CONTACT: Staff Counsel Sheena Allen at (240) 636–4158.

SUPPLEMENTARY INFORMATION: The final rule published on June 18, 2025, at 90 FR 25895, regarding amendments to the rules of practice that govern all proceedings before the Postal Service Board of Contract Appeals, contains an error. It inadvertently added the subparagraph number “(ii)” twice for § 955.29(c)(1). The Postal Service makes this change below to correct the error.

List of Subjects in 39 CFR Part 955

Administrative practice and procedure, Contract disputes, Postal Service.

Accordingly, for the reasons stated, 39 CFR part 955 is corrected by making the following correcting amendments:

PART 955—RULES OF PRACTICE BEFORE THE POSTAL SERVICE BOARD OF CONTRACT APPEALS

■ 1. The authority citation for part 955 continues to read as follows:

Authority: 39 U.S.C. 204, 401; 41 U.S.C. 7101–7109.

■ 2. In § 955.29, amend paragraph (c)(1) to read as follows:

§ 955.29 (Rule 29) Subpoenas.

* * * * *

(c) *Requests for subpoenas.* (1) A request for a subpoena must normally be filed at least:

(i) 15 days before the scheduled deposition of a witness or production by a witness or custodian of documents, electronically stored information, and tangible things;

(ii) 30 days before a scheduled hearing; or

(iii) Notwithstanding paragraphs (c)(1)(i) and (ii) of this section, the Board may honor requests for subpoenas not made within these time limits.

* * * * *

Kevin Rayburn,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2025–12411 Filed 7–2–25; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0083; FRL–5919.4–03–OAR]

National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review: Interim Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule; request for comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking interim final action on the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Integrated Iron and Steel Manufacturing Facilities to revise certain compliance deadlines for standards finalized in 2024.

Specifically, the EPA is revising certain compliance deadlines in the 2024 rule to April 3, 2027, in light of serious concerns that facilities will be unable to comply with the relevant requirements by the existing deadlines.

DATES: This interim final rule is effective on July 2, 2025. Comments on this rule must be received on or before August 1, 2025.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2002–0083 by any of the following methods:

• *Federal eRulemaking Portal:* <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.

• *Email:* a-and-r-docket@epa.gov. Include Docket ID No. EPA–HQ–OAR–2002–0083 in the subject line of the message.

• *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2002–0083.

• *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2002–0083, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

• *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments, see the “Public

Participation” heading of the General Information section of this document.

FOR FURTHER INFORMATION CONTACT: U.S. EPA, Attn: Katie Boaggio, Mail Drop: D243–02, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina, 27711; telephone number: (919) 541–2223; email address: boaggio.katie@epa.gov.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this document the use of “we,” “us,” or “our” is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

APA Administrative Procedure Act
 BF blast furnace
 BOPF basic oxygen process furnace
 CAA Clean Air Act
 CBI Confidential Business Information
 CFR Code of Federal Regulations
 CRA Congressional Review Act
 EPA Environmental Protection Agency
 FR Federal Register
 HAP hazardous air pollutant(s)
 HCl hydrochloric acid
 I&S Integrated Iron and Steel
 MACT maximum achievable control technology
 NESHAP national emission standards for hazardous air pollutants
 NTTAA National Technology Transfer and Advancement Act
 OAQPS Office of Air Quality Planning and Standards
 OMB Office of Management and Budget
 PRA Paperwork Reduction Act
 RFA Regulatory Flexibility Act
 THC total hydrocarbons
 UMRA Unfunded Mandates Reform Act

Organization of this document. The information in this preamble is organized as follows:

- I. General Information
 - A. Public Participation
 - B. Potentially Affected Entities
 - C. Statutory Authority
 - D. Judicial Review and Administrative Review
- II. Regulatory Revisions
 - A. Integrated Iron & Steel NESHAP Background and Summary
 - B. Petitions for Reconsideration
 - C. Compliance Challenges
 - D. Specific Regulatory Revisions
- III. Rulemaking Procedures
- IV. Request for Comment
- V. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Executive Order 14192: Unleashing Prosperity Through Deregulation
 - C. Paperwork Reduction Act (PRA)
 - D. Regulatory Flexibility Act (RFA)

- E. Unfunded Mandates Reform Act of 1995 (UMRA)
- F. Executive Order 13132: Federalism
- G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
- K. Congressional Review Act (CRA)

I. General Information

A. Public Participation

Submit your written comments, identified by Docket ID No. EPA–HQ–OAR–2002–0083, at <https://www.regulations.gov> (our preferred method), or by the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA’s docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed in the *Submitting CBI* section of this document. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI or multimedia submissions; and general guidance on making effective comments.

Submitting CBI. Do not submit information containing CBI to the EPA through <https://www.regulations.gov>. Clearly mark the part or all the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as

CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in the *Public Participation* section of this document. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA’s electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.*, Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the Office of Air Quality Planning and Standards (OAQPS) CBI Office at the email address oaqpscbi@epa.gov, and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqpscbi@epa.gov to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: U.S. EPA, Attn: OAQPS Document Control Officer, Mail Drop: C404–02, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2002–0083. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

B. Potentially Affected Entities

As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576; July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030; July 1992), the Integrated Iron and Steel Manufacturing Facilities source category includes any facility engaged in producing steel from refined iron ore (also known as taconite pellets). These facilities first produce iron from iron ore taconite pellets, sinter, coke, and other raw materials using blast furnaces (BFs), then produce steel from the hot liquid iron produced from the blast furnaces, along with coke, lime, alloys, steel scrap, and other raw materials using

basic oxygen process furnaces (BOPFs). Integrated iron and steel manufacturing includes the following processes: sinter production, iron production, iron preparation (hot metal desulfurization), and steel production. The iron production process includes the production of iron in BF's by the reduction of iron-bearing materials with a very hot gas. The steel production process includes BOPFs and ladle metallurgy operations. The 2022 North American Industry Classification System (NAICS) code for the source category is 331110 for "Iron and Steel Mills and Ferroalloy Manufacturing." The NAICS code serves as a guide for readers outlining the type of entities that this interim final action is likely to affect. Currently there are eight operating facilities in this source category.

The information provided in this section on potentially affected entities is not intended to be exhaustive. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

C. Statutory Authority

Statutory authority to issue the amendments finalized in this action is provided by the same Clean Air Act (CAA) provision that provided authority to issue the regulations being amended: CAA section 112, 42 U.S.C. 7412. Statutory authority for the rulemaking procedures followed in this action is provided by Administrative Procedure Act (APA) section 553(b)(B), 5 U.S.C. 553(b)(B).

D. Judicial Review and Administrative Review

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by September 2, 2025. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

II. Regulatory Revisions

A. Integrated Iron & Steel NESHAP Background and Summary

The EPA initially set maximum achievable control technology (MACT) standards for the Integrated Iron and Steel (IIS) Manufacturing Facilities source category on May 20, 2003 (68 FR 27646), codified at 40 CFR part 63, subpart FFFFF, and as part of a residual

risk and technology review, finalized amendments to the standards on July 13, 2020 (85 FR 42074). Subsequently, on April 3, 2024, the EPA completed a second technology review under a court-ordered deadline¹ by finalizing amendments to 40 CFR part 63, subpart FFFFF (89 FR 23294). The amendments included: (1) MACT standards to address previously unregulated emissions of hazardous air pollutants (HAP) from the IIS Manufacturing Facilities source category pursuant to our interpretation of *Louisiana Environmental Action Network v. EPA*, 955 F.3d 1088 (D.C. Cir. 2020) ("LEAN"); and (2) revised emissions standards based on new information regarding developments in practices, processes, and control technologies pursuant to CAA section 112(d)(6).

Relevant to this action, the 2024 rule finalized the following: (1) new MACT standards, in the form of numeric emission limits, for five previously unregulated HAP (carbonyl sulfide, carbon disulfide, mercury, hydrogen chloride (HCl), and hydrogen fluoride) emitted from the sinter plants located at IIS manufacturing facilities; (2) new MACT standards, in the form of opacity limits and work practice standards, for five previously unregulated sources of unmeasured fugitive and intermittent particulate emissions: Unplanned bleeder valve openings, planned bleeder valve openings, beaching, bell leaks, and slag processing, handling and storage; and (3) new MACT standards, in the form of numeric emission limits, for unregulated pollutants from BF stoves and BOPFs: total hydrocarbons (THC) (as a surrogate for non-dioxin and non-furan organic HAP), HCl, and dioxins/furans (D/F); and for unregulated pollutants for BF's: THC (as a surrogate for non-dioxin and non-furan organic HAP) and HCl. Additionally, pursuant to CAA section 112(d)(6), the 2024 rule also finalized: (1) work practice standards for the BOPF shops; (2) a requirement that facilities conduct EPA Method 9 readings two times per month at the BOPF Shop and BF casthouse; (3) a fence line monitoring requirement for chromium for the stated purpose of ensuring that the work practice standards and opacity limits are achieving the anticipated reductions; and (4) revised standards for D/F and polycyclic aromatic hydrocarbons (PAH) from sinter plants to reflect the installation and operation of activated carbon injection (ACI) technology.

B. Petitions for Reconsideration

Following the issuance of the 2024 rule, the EPA was notified by industry parties that there were several errors in the final regulatory text and certain items that the EPA had not properly raised for comment during the proposal. The United States Steel Corp. and Cleveland-Cliffs Inc. submitted administrative petitions for reconsideration on June 3, 2024, detailing those errors, requesting corrections, and expressing concerns regarding the technical feasibility of certain new requirements. The industry parties additionally submitted requests for an administrative stay of the 2024 rule pursuant to CAA section 307(d)(7)(B). Earthjustice on behalf of environmental petitioners challenging the 2020 and 2024 IIS rules² also submitted a petition for reconsideration regarding alleged improper notice related to several of the new requirements finalized in the rules.

The Agency responded to the petitions for reconsideration on August 14, 2024, granting discretionary reconsideration of three issues (the numeric emission limit for HCl from BF casthouses and the work practice standards for unplanned bleeder valve openings and beaching) and expressing the intention to issue a correction notice to do the following:

1. clarify that the definition of an "unplanned bleeder valve opening" includes only those openings that are not located downstream from a control device (*i.e.*, "dirty bleeder valve openings");
2. clarify the timing of planned openings and how they may affect opacity readings;
3. clarify the definition of a "single bleeder valve opening event";
4. delete from 40 CFR part 63, subpart FFFFF, Table 2 the emission standard for "windbox exhaust stream" for BF casthouses, BF stoves, and BOPF shops because these sources do not have a windbox exhaust stream; and
5. clarify the method that must be used to measure opacity for bell leaks.

The EPA also committed to continue reviewing additional issues raised in the petitions for reconsideration.

After receiving the EPA's August 14, 2024 response letter, industry petitioners contacted EPA staff to provide additional information regarding the five correction items. These further discussions resulted in a determination by the Agency that some of the corrections and discretionary

¹ See *California Communities Against Toxics, et al. v. Pruitt*, Case No. 15–512 (D.D.C.), Orders (Feb. 19, 2020; April 14, 2021; Sept. 20, 2023).

² Earthjustice is counsel for Clean Air Council, Gary Advocates for Responsible Development, Hoosier Environmental Council, and Sierra Club.

reconsideration items instead warranted mandatory reconsideration under CAA section 307(d)(7)(B).³

As a result, on March 5, 2025, the EPA issued a second letter modifying the scope of the already convened discretionary reconsideration proceeding by identifying several items from the petitions for reconsideration as appropriate for mandatory reconsideration based on the criteria in CAA section 307(d)(7)(B): (1) work practice standards for unmeasured fugitive and intermittent particulate from unplanned bleeder valve openings; (2) the opacity limit for planned bleeder valve openings; (3) work practice standards for bell leaks; and (4) the opacity limit for slag processing and handling.⁴

Considering the need for additional time for the EPA's mandatory reconsideration of some aspects of the 2024 rule, on March 31, 2025, we determined that a partial stay of the final rule was necessary and issued the *Partial Administrative Stay of National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review*, 90 FR 14207 (March 31, 2025). With that action, the EPA stayed the April 3, 2025, compliance deadlines contained in the 2024 rule until July 1, 2025.

C. Compliance Challenges

Most of the items identified for reconsideration in the two response letters have compliance deadlines of April 3, 2025, or April 3, 2026. After further consideration of all the reconsideration issues, the parties' petitions for reconsideration, and further discussion with stakeholders, the EPA has determined to revise the 2025 and 2026 compliance deadlines in the II&S Manufacturing Facilities NESHAP to April 3, 2027, for unplanned bleeder valve openings, planned bleeder valve openings, bell leaks, slag processing and handling, beaching, and BF/BOPF work practices. The revision of these compliance deadlines will avoid documented issues regarding compliance with the 2024 rule with respect to the items being reconsidered and corrected. When the

EPA promulgated the standards at issue in this action with compliance deadlines in 2025—opacity standards for planned openings, work practice standards for bell leaks, and the monitoring frequency for BOPF/BF—the EPA concluded that these standards could be met without the need for installation of new control equipment, monitors, or measurement equipment. Therefore, the EPA provided only one year to comply with those standards (*i.e.*, a compliance deadline of April 3, 2025).

However, after promulgation of the 2024 rule, information was provided to the EPA by industry parties in their CAA section 307(d) petitions for administrative reconsideration that facilities may not be able to comply with the standards as written by the April 3, 2025 deadline without clarifications, corrections, or revisions.⁵ Additionally, industry petitioners provided new supplemental monitoring data to the EPA to support their petitions for reconsideration. These data demonstrate that it likely will be infeasible for a majority of sources to comply with the 2024 rule's opacity limits for planned bleeder valve openings. The supplemental monitoring was performed by industry to substantiate comments they submitted during the public comment period regarding certain source-by-source operational variabilities. But, because the EPA was under a court-ordered deadline to promulgate the final rule, the Agency did not have time to fully evaluate those comments and underlying data and their implications. Industry was therefore not aware of the need for the supplemental data and explanation of source variability until after the 2024 rule was finalized. These supplemental datasets provided by affected sources to support the industry petitions for reconsideration were not available to the EPA until after the 2024 rule was finalized.

While the EPA concluded there are work practices available to minimize opacity, these new data provide evidence that there is more variability in each source's operations and opacity than we accounted for in developing the final opacity standards. Additionally, for bell leaks, it was brought to the EPA's attention that the 2024 rule's regulatory language setting compliance action levels is inconsistent with what was proposed and needs to be clarified for compliance to be achieved. Finally, for BOPF shops and BF casthouses,

through the petitions, the EPA realized there is ambiguity in the regulatory text for the monitoring frequency and location of fugitive emissions that must be addressed to clarify how to demonstrate compliance with these standards.

Likewise, when the EPA promulgated the operational limit for unplanned openings, the opacity limit for slag operations, and the work practice standards for beaching, the EPA had concluded that facilities could comply with these limits in two years, by April 3, 2026, based on the understanding that facilities only had to make relatively moderate changes in equipment or operations to comply with those standards. Those expected changes included installing: (1) stockline monitors to measure material flows in the blast furnaces and/or material sizing equipment or screens to ensure input material was properly sized, to help prevent unplanned openings; (2) fogging and/or water spray equipment to minimize opacity for slag processing operations; and (3) partial enclosures or carbon dioxide suppression to minimize fugitives from beaching. However, based on additional information provided by the petitioners after promulgation of the rule and after further discussions and analyses, the EPA now understands that, in some cases, the equipment and work practices are insufficient or infeasible to meet the standards as currently written. Therefore, some affected sources will likely need more than two years to comply with the standards as finalized.

For unplanned openings, the EPA intended that the finalized standard would only apply to unplanned openings that are not routed to a control device. However, the EPA inadvertently finalized the standard such that it also applies to bleeder valve openings that go through a control device. This technical error will increase the number of unplanned openings that count towards the yearly operational limit, which makes the limit unachievable until a correction is made. For slag handling and processing, new data were provided in the petitions that show higher opacity concentrations than previously known by the EPA for certain specific slag processing and handling activities. For beaching, the EPA failed to adequately consider some feasibility challenges with certain required work practices.

Furthermore, the EPA recognizes that additional corrections, clarifications, and/or revisions to these standards are needed, and such changes cannot be made without an opportunity for notice and comment.

³ Under CAA section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), the Administrator shall convene a proceeding for reconsideration of a rule when the person raising an objection to a rule can demonstrate: (1) that it was either impractical to raise the objection during the period for public comment or that the grounds for the objection arose after the period for public comment; and (2) that the objection is of central relevance to the outcome of the rule.

⁴ Copies of both EPA response letters are included in Docket ID No. EPA-HQ-OAR-2002-0083.

⁵ The CAA section 307(d) petitions for administrative review of the 2024 rule are available in the docket for this action.

For all the foregoing reasons, the EPA is revising the 2025 and 2026 compliance deadlines for the standards described above to April 3, 2027, to allow sufficient time to address the issues discussed above and to allow sufficient time for compliance in light of the new data and information presented to the Agency. For consistency, even though there is no operational deadline that applies to fence-line monitoring currently, we are also revising the deadline for fence-line monitoring to 1 year after promulgation of the test method or April 3, 2027, whichever is later.

D. Specific Regulatory Revisions

The regulatory revisions to 40 CFR part 63, subpart FFFFF in this action are amending 40 CFR 63.7783 by revising paragraph (g), adding paragraph (h), and amending 40 CFR 63.7792 by revising paragraph (a) to revise the relevant compliance deadlines associated with the standards in this rule to April 3, 2027.

III. Rulemaking Procedures

As noted in section I.C. of this preamble, the EPA's authority for the rulemaking procedures followed in this action is provided by APA section 553, 5 U.S.C. 553.⁶ In general, an agency issuing a rule under the procedures in APA section 553 must provide prior notice and an opportunity for public comment, but APA section 553(b)(B) includes an exemption from notice-and-comment requirements "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons, therefore, in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." This action is being issued without prior notice or opportunity for public comment because the EPA finds that the APA "good cause" exemption from notice-and-comment requirements applies here.

For the reasons described in detail in Section II above, notice-and-comment is impracticable here. First, the EPA has granted petitions for administrative reconsideration of numerous provisions of the 2024 rule and has committed to develop a rulemaking that will be subject to notice-and-comment. See 90 FR 14207, 14208 (March 31, 2025). The

reconsideration action is needed because the EPA recognizes that procedural and drafting errors made in the rulemaking process in addition to information that was not submitted by the regulated parties until after the close of the comment period for the proposed rule led the EPA to promulgate regulations that pose compliance challenges that must be resolved before regulated parties will be able to comply with many provisions of the 2024 rule. Because the existing compliance deadlines require action by facilities in the short-term, including investment decisions and modifications to equipment and operating procedures with a significant lead time, revising the compliance dates through prior notice and comment procedures would be impracticable. Second, on March 31, 2025, the EPA issued an administrative stay of the 2025 deadlines contained in the 2024 rule until July 1, 2025 (90 FR 14207; March 31, 2025). If the EPA were to evaluate comments on this action before finalizing it, it is highly likely that the Agency would miss the July 1, 2025, deadline to revise the 2025 compliance deadlines, thereby potentially throwing regulated parties into immediate non-compliance with regulatory requirements that will most likely be revised during the reconsideration rulemaking process. Prior notice and comment procedures are impracticable on this basis as well.

The EPA is also making this rule effective immediately as "a substantive rule which grants or recognizes an exemption or relieves a restriction" under APA section 553(d)(1). This action relieves restrictions by revising the 2024 rule's 2025 and 2026 compliance deadlines.

IV. Request for Comment

As explained in section III of this document, the EPA finds good cause to take this interim final action without prior notice or opportunity for public comment. However, the EPA is requesting comment on the revised compliance dates described in this rule. The EPA is not reopening for comment any provisions of the 2024 rule other than the specific provisions and compliance dates that are expressly amended in this interim final rule.

V. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This is a significant regulatory action under Executive Order section 3(f)(1) that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared a regulatory impact analysis (RIA) of the potential costs and benefits associated with this action. This analysis, *Regulatory Impact Analysis for the National Emission Standard for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review: Interim Final Rule*, is consistent with Executive Order 12866 and is available in the docket. The RIA analyzes impacts over the period 2025 to 2035 to replicate the analytical timeframe used in the RIA for the 2024 final rule. This interim final action is not based on the estimated costs or benefits presented in the RIA, but rather is based on concerns regarding the technical feasibility of certain regulatory requirements.

Under the 2024 rule, II&S manufacturing facilities must perform required work practices or meet a specified opacity or operational limit (or both) for each UFIP emissions source. Revising the compliance deadlines for these sources allows affected facilities to defer capital investment and avoid operating and maintenance (O&M) costs over the period during which compliance is no longer required. The compliance cost savings estimated by this analysis represent these avoided O&M costs and deferred capital investment costs.

Under this interim final rule, the 2024 rule would no longer reduce emissions of HAP from UFIP emissions sources over the period April 3, 2025, through April 3, 2027, as projected in the RIA for the 2024 rule.⁷ The potential benefits from these reductions of HAP were not monetized in that RIA and potential benefit impacts associated with HAP emissions changes due to this interim final rule were not monetized. The interim final rule is also expected to affect emissions of unregulated pollutants such as PM_{2.5}. The methodology for estimating these emission changes and monetizing the associated benefit impacts is described

⁶ Under CAA section 307(d)(1)(C), the EPA's promulgation or revision of any standard of performance under CAA section 112 would normally be subject to the rulemaking procedural requirements of CAA section 307(d), including notice-and-comment procedures, but CAA section 307(d) does not apply "in the case of any rule or circumstance referred to in subparagraphs (A) or (B) of [APA section 553(b)]."

⁷ "Regulatory Impact Analysis for the Final National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review" (Ref. EPA-452/R-24-012). Docket ID No. EPA-HQ-OAR-2002-0083-1977.

in the RIA for this action and the RIA for the 2024 rule. The estimated changes to emissions caused by this interim final rule are expected to be zero for the remainder of the analytical timeframe covered by the RIA.

Table 1 summarizes the estimated changes to compliance costs and emissions associated with this interim final action from 2025–2035. Costs are measured in 2024 dollars discounted to 2025. Emissions changes are measured in short tons. This table presents the

present values (PV) and equivalent annualized values (EAV) of these estimated impacts discounted using social discount rates of both three and seven percent, in accordance with OMB Circular A–4. The EAV figures are annualized over 11 years to reflect the length of the timeframe used in the analysis. The EPA estimates that the interim final rule will result in annualized compliance cost savings of \$0.4 million using a 3% social discount rate and \$0.5 million using a 7% social

discount rate. The EPA also estimates that the interim final rule will lead to HAP emissions increases of 120 tons from 2025 through 2027, when the provisions of the 2024 Final Rule are scheduled to go into effect. Changes to emissions from 2028 through 2035 are expected to be zero. The full benefit-cost analysis, which is contained in the RIA for this rulemaking, is consistent with Executive Order 12866 and is available in the docket.

TABLE 1—SUMMARY OF COMPLIANCE COST SAVINGS, AND EMISSIONS CHANGES FOR THE INTERIM FINAL RULE, DISCOUNTED TO 2025 (MILLIONS OF 2024 DOLLARS), 2025–2035

	3 Percent discount rate		7 Percent discount rate	
	PV	EAV	PV	EAV
Compliance Cost Savings	\$3.3	\$0.4	\$3.5	\$0.5
Emissions Increases	2025–2035			
HAP (Tons)				
	120			

Note: Estimates are rounded to two significant figures.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 deregulatory action. The EPA estimates that the interim final rule will result in compliance cost savings of \$3.3 million in present value (\$0.4 million EAV) using a 3% social discount rate and \$3.5 million in present value (\$0.5 million EAV) using a 7% social discount rate from 2025–2035. Details on the estimated compliance cost savings of this final rule can be found in EPA’s analysis of the potential costs and benefits associated with this action. This analysis is contained in the RIA, which is available in the docket.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. The OMB has previously approved the information collection activities that apply to the II&S facilities affected by this action and has assigned OMB control number 2060–0517. This action does not change the information collection requirements.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The Agency confirmed through responses to a CAA section 114 information request that there are only eight integrated iron and steel manufacturing facilities currently

operating in the United States and that these plants are owned by two parent companies that do not meet the definition of small businesses, as defined by the U.S. Small Business Administration.

E. Unfunded Mandates Reform Act of 1995 (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have Tribal implications as specified in Executive Order 13175. This rule will implement revisions to the compliance dates for certain provisions. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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

This action is not subject to Executive Order 13211, because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We have concluded that this action is not likely to have any adverse energy effects because it contains no regulatory requirements that will have an adverse impact on productivity, competition, or prices in the energy sector.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action does not involve technical standards.

K. Congressional Review Act (CRA)

This action is subject to the Congressional Review Act (CRA), 5

U.S.C. 801–808, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This rule has been determined to meet the criteria at 5 U.S.C. 804(2) and so would normally be subject to a 60-day delayed effective date under the CRA (5 U.S.C. 801(a)(3)). However, CRA allows the issuing agency to make such rules effective sooner if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in Part III, including the basis for that finding.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Lee Zeldin,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 63 of title 40, chapter I, of the Code of Federal Regulations as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart FFFFF—National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities

■ 2. Amend § 63.7783 by revising paragraph (g) and adding paragraph (h) to read as follows:

§ 63.7783 What do I have to comply with this subpart?

(g) If you have an affected source for which construction or reconstruction commenced on or before July 31, 2023, each sinter plant windbox, BF casthouse, BF stove, primary emission control system for a BOPF, and fugitive and intermittent particulate source at your facility must be in compliance with the applicable emission limits in table 1 to this subpart through performance testing under § 63.7825 and work practice standards in § 63.7793 by April 3, 2027.

(h) Affected sources that commence construction or reconstruction after July

31, 2023, must be in compliance with provisions in this subpart through performance testing by April 3, 2024 or upon startup, whichever is later.

■ 3. Amend § 63.7792 by revising paragraph (a) introductory text to read as follows:

§ 63.7792 What fenceline monitoring requirements must I meet?

* * * * *

(a) Beginning either 1 year after promulgation of the test method for fenceline sampling of metals applicable to this subpart or April 3, 2027, whichever is later, the owner or operator must conduct sampling along the facility property boundary and analyze the samples in accordance with the method and paragraphs (a)(1) through (3) of this section.

* * * * *

[FR Doc. 2025–12407 Filed 7–1–25; 11:15 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–OLEM–2024–0374, EPA–HQ–OLEM–2024–0375, EPA–HQ–OLEM–2024–0377; FRL–12162–02–OLEM]

National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA” or “the Act”), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”) include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List (“NPL”) constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (“the EPA” or “the agency”) in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds three sites to the General Superfund section of the NPL.

DATES: The rule is effective on August 4, 2025.

ADDRESSES: Contact information for the EPA Headquarters:

- Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue NW; William Jefferson Clinton Building West, Room 3334, Washington, DC 20004, telephone number: (202) 566–1744.

FOR FURTHER INFORMATION CONTACT:

Vanessa Van Note, U.S. Environmental Protection Agency, Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mail Code 5203T), 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone number: (202) 564–4830, email address: vannote.vanessa@epa.gov.

The contact information for the regional dockets is as follows:

- Mandy Liao, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund and Emergency Management Division, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; telephone number: (617) 918–1036.

- James Desir, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; telephone number: (212) 637–4342.

- Nancy Shannon, Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, 4 Penn Center, 1600 John F. Kennedy Boulevard, Mail code 3SD12, Philadelphia, PA 19103; telephone number: (215) 814–3175.

- Sandra Bramble, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW, Mail code 9T25, Atlanta, GA 30303; telephone number: (404) 562–8926.

- Jessica Wheatley, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Records Officer, MI–10J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 353–8559

- Steve Cowan, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1201 Elm Street, Suite 500, Mail code SEDA, Dallas, TX 75270; telephone number: (214) 665–3149.

- Kumud Pyakuryal, Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mail code SUPRSTAR, Lenexa, KS 66219; telephone number: (913) 551–7956.

- Ryan Dunham, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mail code 8SEMD–EMB, Denver, CO 80202–1129; telephone number: (303) 312–6627.

- Leslie Ramirez, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mail code SFD–8–4, San Francisco, CA 94105; telephone number: (415) 972–3978.

• Justin Hodgson, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 Sixth Avenue, Mail code 13-J07, Seattle, WA 98101; telephone number: (206) 553-6516.

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I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (“CERCLA” or “the Act”), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases

into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (“SARA”), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes “criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action.” “Removal” actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of “releases” and the highest priority “facilities” and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. Of note, listing a site on the NPL does not assign liability to any party or to the owner of

any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the “General Superfund section”) and one of sites that are owned or operated by other Federal agencies (the “Federal Facilities section”). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System (“HRS”) score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. On January 9, 2017 (82 FR 2760), a subsurface intrusion component was added to the HRS to enable the EPA to consider human exposure to hazardous substances or pollutants and contaminants that enter regularly occupied structures through subsurface intrusion when evaluating sites for the NPL. The current HRS evaluates four pathways: ground water, surface water, soil exposure and subsurface intrusion, and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites

to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the “Superfund”) only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (“Remedial actions” are those “consistent with a permanent remedy, taken instead of or in addition to removal actions” (40 CFR 300.5).) However, under 40 CFR 300.425(b)(2), placing a site on the NPL “does not imply that monies will be expended.” The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA “facility” is broadly defined to include any area where a hazardous substance has “come to be located” (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that

area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the “boundaries” of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the “Jones Co. Plant site”) in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the “site”). The “site” is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination; and is not meant to constitute any determination of liability at a site. For example, the name “Jones Co. plant site,” does not imply that the Jones Company is responsible for the contamination located on the plant site.

EPA regulations provide that the remedial investigation (“RI”) “is a process undertaken . . . to determine the nature and extent of the problem presented by the release” as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility study (“FS”) (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination “has come to be located” before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted previously, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required;
- (ii) All appropriate Superfund-financed response has been implemented, and no further response action is required; or
- (iii) The remedial investigation has shown the release poses no significant threat to public health or the environment and taking of remedial measures is not appropriate.

H. May the EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What is the Construction Completion List (CCL)?

The EPA also has developed an NPL construction completion list (“CCL”) to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) the site qualifies for deletion from the NPL. For more

information on the CCL, see the EPA's internet site at <https://www.epa.gov/superfund/construction-completions-national-priorities-list-npl-sites-number>.

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure represents important Superfund accomplishments, and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0-36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please

go to <https://www.epa.gov/superfund/about-superfund-cleanup-process#reuse>.

K. What is state/tribal correspondence concerning NPL Listing?

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA's policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following website: <https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing>.

The EPA has improved the transparency of the process by which state and tribal input is solicited. The EPA is using the Web and where appropriate more structured state and tribal correspondence that: (1) Explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the

transparent nature of the process by informing states that information on their responses will be publicly available.

A model letter and correspondence between the EPA and states and tribes where applicable, is available on the EPA's website at <https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing>.

II. Availability of Information to the Public

A. May I review the documents relevant to this final rule?

Yes, documents relating to the evaluation and scoring of the site in this final rule are contained in dockets located both at the EPA headquarters and in the EPA regional offices.

An electronic version of the public docket is available through <https://www.regulations.gov> (see table below for Docket ID Nos.). Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facilities identified in section II.D.

DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
Historic Potteries	Trenton, NJ	EPA-HQ-OLEM-2024-0374
Carlisle Village Cleaners	Albuquerque, NM	EPA-HQ-OLEM-2024-0375
J.H. Baxter	Eugene, OR	EPA-HQ-OLEM-2024-0377

B. What documents are available for review at the EPA Headquarters docket?

The headquarters docket for this rule contains the HRS score sheets, the documentation record describing the information used to compute the score, a list of documents referenced in the documentation record for each site and any other information used to support the NPL listing of the site. These documents are also available online at <https://www.regulations.gov>.

C. What documents are available for review at the EPA regional dockets?

The EPA regional dockets contain all the information in the headquarters docket, plus the actual reference

documents containing the data principally relied upon by the EPA in calculating or evaluating the HRS score. These reference documents are available only in the regional dockets.

D. How do I access the documents?

You may view the documents that support this rule via the internet at <https://www.regulations.gov> or by contacting the EPA HQ docket or appropriate regional docket. The hours of operation for the headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. Please contact the individual regional dockets for hours. For addresses for the headquarters and

regional dockets, see **ADDRESSES** section in the beginning portion of this preamble.

E. How may I obtain a current list of NPL sites?

You may obtain a current list of NPL sites online at <https://www.epa.gov/superfund/national-priorities-list-npl-sites-site-name>.

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds the following three sites to the General Superfund section of the NPL. These sites are being added to the NPL based on HRS scores of 28.50 or above.

GENERAL SUPERFUND SECTION

State	Site name	City/county
NJ	Historic Potteries	Trenton.
NM	Carlisle Village Cleaners	Albuquerque.
OR	J.H. Baxter	Eugene.

B. What did the EPA do with the public comments it received?

The EPA is adding three sites to the National Priorities List (NPL) in this final rule. The Historic Potteries site in Trenton, NJ, the Carlisle Village Cleaners Site in Albuquerque, NM, and the J.H. Baxter site in Eugene, OR were proposed for addition to the NPL on September 5, 2024 (89 FR 72356). The public comment period on the proposed rule to add these sites to the NPL closed on November 4, 2024.

The EPA reviewed and considered all public comments received on the sites in this rule and responded to all comments in Docket ID No. EPA-HQ-OLEM-2024-0374 (Historic Potteries, NJ), EPA-HQ-OLEM-2024-0375 (Carlisle Village Cleaners, NM), and EPA-HQ-OLEM-2024-0377 (J.H. Baxter, OR). In this Unit is a summary of significant comments received on the Historic Potteries, Carlisle Village Cleaners, and J.H. Baxter sites and EPA responses.

Historic Potteries

For the Historic Potteries site, the EPA received 17 comments that either supported or did not oppose the addition of the site to the NPL. One commenter expressed support for all four sites in the proposal, and seven commenters provided support with requests. Lead-Free NJ and three private citizens supported listing and provided the following requests: prioritization of funding and proposal adoption, addressing community concerns about blood lead level testing, addressing indoor and outdoor lead paint concerns, and incorporating local hiring in the removal activities. Unleaded Kids requested the EPA work with the community, test for contaminants that were used by historic potteries, expand the site as data permit, ensure transparency about contractors completing cleanup, provide lead-based paint abatement to residents, and collaborate with state and local agencies. A private citizen requested that additional information about soil lead contamination and its impacts to children be considered. An additional private citizen requested that lead testing be conducted in homes. A private citizen requested the implementation of the EPA's Technical Assistance Services for Communities (TASC) Program or a Technical Assistance Grant (TAG) Program, as well as a Superfund Community Advisory Group (CAG).

In response to the overwhelming support for listing this site, the EPA has added the Historic Potteries site to the

NPL. Listing makes a site eligible for remedial action funding under CERCLA, and the EPA will examine the site to determine what response, if any, is appropriate to ensure the protection of human health and the environment. EPA emphasizes that while an initial focus has been on the residential, public school, and public park properties in or around the East Trenton and Top Road neighborhood, the full extent of the site will be determined in a separate stage of the CERCLA process following additional investigation. EPA may identify additional properties or neighborhoods for which remediation for risks from lead in soil is necessary. Sources of funding are also determined at a separate stage of the Superfund process after listing. Regarding community involvement, the EPA ensures community relations is a continuing activity designed to meet the specific needs of the community. Anyone wanting information on a specific site should contact the Community Relations staff in the appropriate EPA Regional Office. Additional information on community involvement can also be found on the EPA's website, and site-specific information can be accessed on the site progress profile (<https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0203535>). Regarding comments discussing the TAGs program, the TASC program, or CAGs, TAGs are grants provided by the EPA to qualified community groups to assist communities with NPL sites. The EPA provides information specific to TAGs online at the following location: <https://www.epa.gov/superfund/technical-assistance-grant-tag-program>. The TASC program provides independent assistance through an EPA contract to help communities understand EPA actions, and CAGs are groups intended to represent the views and perspectives of community members regarding issues related to a Superfund site. Information regarding the TASC program and CAGs are available online at the following locations: <https://www.epa.gov/superfund/technical-assistance-services-communities-tasc-program> and <https://www.epa.gov/superfund/community-advisory-group-cag-resources>.

Carlisle Village Cleaners

The EPA received 41 comments that either supported the listing of the Carlisle Village Cleaners site on the NPL or did not oppose the addition of the site to the NPL and eight comments that opposed listing. Two comments received provided support for all four sites included in the proposal. One commenter not opposing the listing of

the site stated that there should be more facts, statistics and information on how the government is working to cleanup the contamination. Another commenter that did not oppose listing requested testing of their home. One commenter expressed concern that the ongoing cleanup efforts at the site are not sufficient to address the complexity of the contamination present. Several commenters mentioned adverse health effects possibly associated with the Site and expressed concerns with families and children living in impacted areas. Additional requests submitted by commenters in support of listing included requests for additional information about when remediation will be completed.

In opposition to the proposed addition of the site to the NPL, five commenters opposed listing the site due to what they characterized as the limited number of individuals impacted by the site. One commenter also asserted that NPL sites can be perceived negatively. Two other commenters stated that additional testing should occur prior to adding the site to the NPL, and one commenter expressed general opposition to the proposal to add the site to the NPL.

In response to all comments received, the EPA has added the Carlisle Village Cleaners site to the NPL to further investigate and characterize the extent of contamination. By listing this site, the EPA is identifying Carlisle Village Cleaners as a site of national priority among known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories. Listing makes a site eligible for remedial action funding under CERCLA, and the EPA will examine the site to determine what response, if any, is appropriate. Decisions regarding whether remedial actions will occur and which approach to remediation should be employed, if any, will occur later in the Superfund process. The full process is outlined here: <https://www.epa.gov/superfund/superfund-cleanup-process>.

Regarding the comment to provide more facts and statistics on the site to the public, EPA has included all data, referencing all available documentation, needed to meet all CERCLA and HRS requirements for placing the site on the NPL into the Hazard Ranking System documentation record available at <https://www.regulations.gov>. This information is sufficient to confirm that there is contamination present that requires cleanup under CERCLA authority. With the site being placed on the NPL, EPA will move forward with conducting a larger investigation to

establish the risk the contamination may present to the public and surrounding environment. All results from these investigations will be made publicly available and the public will be asked to provide input on any future decisions to conduct cleanup activity at the site. Additional information regarding the Site's progress is made available to the public on the Site progress profile available here: <https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0622185>.

Regarding questions of the level of risk posed by the site and the number of people evaluated as targets, the site and associated population evaluated in the HRS scoring achieved an NPL-eligible HRS site score above the minimum of 28.50 required for listing. The HRS is not a site-specific or human health risk assessment. The HRS is a numerically based screening tool that the EPA uses to assess the relative degree of risk to human health and the environment posed by a site compared to other sites subject to review based on a screening-level knowledge of site conditions. The HRS score is one method used to determine whether a site is eligible for placement on the NPL. An NPL-eligible HRS site score at or above 28.50 establishes that the site poses a sufficient relative risk to human health or the environment to warrant inclusion on the NPL. For HRS scoring purposes, the population associated with the Carlisle Village Cleaners site and the site conditions are sufficient to achieve an NPL-eligible HRS site score and warrant inclusion on the NPL. A site-specific risk assessment will be performed at later stage of the Superfund cleanup process, as appropriate. The full process is outlined here: <https://www.epa.gov/superfund/superfund-cleanup-process>.

Regarding the ongoing efforts to reduce the contamination through the introduction of air mitigation systems referred to as "air filters," more data are needed to determine which mitigation systems are appropriate to address the known and unknown human exposure issues on site. These systems are meant as a human health protection measure but do not treat or cleanup the contamination that is present in the soil at the site.

Regarding possible stigma associated with an NPL site, economic factors and stigma are generally not considered in the assessment of whether a site belongs on the NPL. However, the EPA notes that costs and benefits can both be associated with including a site on the NPL. Inclusion of a site on the NPL does not impact the confirmed presence of hazardous waste at a site location.

Among the benefits of including sites on the NPL are increased health and environmental protections as a result of increased public awareness of potential hazards and the distribution of appropriate resources to addressing the contamination at a site, if warranted. Should CERCLA remedies be implemented, there will be lower human exposure to high-risk chemicals, and access to higher quality surface water, ground water, soil, and air. Therefore, it is possible that any perceived or actual negative fluctuations in property values that may result from contamination may also be countered by positive fluctuations when a CERCLA investigation and any necessary cleanup are completed. For further questions on how a Superfund site might affect properties within the impacted community, see this fact sheet: <https://semsub.epa.gov/work/05/927384.pdf>.

J. H. Baxter

The EPA received 18 comments that either supported or did not oppose the proposed placement of the J. H. Baxter site on the NPL. The Confederated Tribes of Grand Ronde and the Confederated Tribes of Siletz Indians provided support for listing as it would allow for funding and other resources to be made available for the site. One private citizen expressed support for listing due to the personal emotional, financial, and environmental costs associated with the Site's presence in the commenter's neighborhood. Another private citizen that did not oppose listing inquired about where contaminated material is ultimately transported during remediation. Beyond Toxics and private citizens described what they characterized as high rates of cancer among people in the vicinity of the Site.

In response, the EPA has added the J. H. Baxter site to the NPL. Listing makes a site eligible for remedial action funding under CERCLA, and the EPA will examine the site to determine what response, if any, is appropriate. Decisions regarding whether remedial actions will occur and which approach to remediation should be employed, if any, occur in the remedial stage of the Superfund process. The full process is outlined here: <https://www.epa.gov/superfund/superfund-cleanup-process>. Regarding risk posed by the site, the HRS is not a site-specific risk assessment but is a numerically based screening tool that the EPA uses to assess the relative degree of risk to human health and the environment posed by a site compared to other sites subject to review based on a screening-level knowledge of site conditions. A

site-specific risk assessment will be performed at later stage of the listing process.

IV. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL.

E. Executive Order 13132: Federalism

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a

significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Congressional Review Act (CRA)

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

Provisions of the CRA or section 305 of CERCLA may alter the effective date of this regulation. Under 5 U.S.C. 801(b)(1), a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802. Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983), and *Bd. of Regents of the University of Washington v. EPA*, 86 F.3d 1214, 1222 (D.C. Cir. 1996), cast the validity of the legislative veto into question, the EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, the EPA will publish a document of clarification in the **Federal Register**.

K. Executive Order 14192: Unleashing Prosperity Through Deregulation

This rulemaking is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because it is not a

significant regulatory action subject to Office of Management and Budget review. This rulemaking is published in accordance with direction provided in the Comprehensive Environmental Response, Compensation, and Liability Act, enacted in 1980 to address the cleanup of the Nation’s most highly contaminated sites.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Steven Cook,

Principal Deputy Assistant Administrator, Office of Land and Emergency Management.

For the reasons set out in the preamble, title 40, chapter I, part 300, of the Code of Federal Regulations is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Amend table 1 of appendix B to part 300 by adding the entries “NJ, Historic Potteries”, “NM, Carlisle Village Cleaners”, and “OR, J. H. Baxter” in alphabetical order to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes ^a
NJ	Historic Potteries	Trenton.	
NM	Carlisle Village Cleaners	Albuquerque.	
OR	J. H. Baxter	Eugene.	

^aA = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

* * * * *

[FR Doc. 2025–12499 Filed 7–2–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR**Office of the Secretary****43 CFR Part 46**

[256D0102DM; DS6CS00000;

DLSN00000.000000]

[DOI–2025–0004]

RIN 1090–AB18

**National Environmental Policy Act
Implementing Regulations****AGENCY:** Office of the Secretary, Interior**ACTION:** Interim final rule, request for
comments

SUMMARY: The Department of the Interior (Department or DOI) is partially rescinding and making necessary targeted updates to its remaining regulations implementing the National Environmental Policy Act (NEPA), which were promulgated to “supplement” now-rescinded Council on Environmental Quality (CEQ) NEPA implementing regulations. Mindful that the Supreme Court recently clarified NEPA is a “purely procedural statute,” DOI will henceforth maintain the remainder of its NEPA procedures—which apply only to DOI’s internal processes—in a Handbook separate from the Code of Federal Regulations (CFR). This interim final rule requests comments on this action and related matters to inform DOI’s decision-making.

DATES: The interim final rule is effective July 3, 2025. Comments must be postmarked (for mailed comments), delivered (for personal or messenger delivery comments), or filed (for electronic comments) no later than August 4, 2025. The Department will not necessarily consider any comments received after the above date in making our decision.

ADDRESSES: You may submit comments on this IFR and its supporting documents through either of the following methods:

■ **Federal eRulemaking Portal:** <https://www.regulations.gov> docket number DOI–2025–0004. Follow the instructions for submitting comments.

■ **Mail/Hand Delivery:** U.S. Department of the Interior, 1849 C Street NW, MS 5020, Washington, DC 20240.

Instructions: All submissions must include the agency name, “Department of the Interior,” and docket number, DOI–2025–0004, for this rulemaking.

All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Do not submit electronically any information you consider to be private, Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Docket: For access to the docket to read comments received, go to <https://www.regulations.gov> docket number DOI–2025–0004.

FOR FURTHER INFORMATION CONTACT:

Stephen G. Tryon, Director, Office of Environmental Policy and Compliance, 202–208–4221, NEPAregulations@ios.doi.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

DOI is issuing this interim final rule to partially rescind and make other needed, targeted updates to its regulations for implementation of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, as amended (NEPA), codified at 43 CFR part 46. DOI’s existing NEPA implementing regulations were promulgated as a “supplement . . . to be used in conjunction with,” 43 CFR 46.20, CEQ’s NEPA regulations. DOI provided that the “[p]urpose of this part” was to ensure “compliance with” not only NEPA itself but CEQ’s regulations implementing NEPA. 43 CFR 46.10(a)(2). But CEQ’s NEPA regulations have been repealed, as of April 11, 2025. *See Removal of National Environmental Policy Act Implementing Regulations*, (90 FR 10610; Feb. 25, 2025). CEQ’s repeal of its regulations was necessitated by and is consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 29, 2025), in which President Trump rescinded President Carter’s E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make rules. President Trump in E.O. 14154 further directed agencies to revise their NEPA implementing procedures consistent with the E.O., including its direction to CEQ to rescind its regulations. DOI’s regulations, which were a “supplement . . . to be used in conjunction with” those CEQ regulations, thus stand in obvious need of fundamental revision.

In addition, Congress recently passed the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, signed on June 3, 2023 to add substantial detail and direction in Title I of NEPA,

including in particular on procedural issues that CEQ, DOI, and other agencies had previously addressed in their own regulations. DOI recognized the need to update its regulations in light of these significant statutory changes. Since DOI’s regulations were originally designed to supplement CEQ’s NEPA regulations, DOI had been awaiting CEQ action before revising its own regulations, consistent with CEQ direction. See 40 CFR 1507.3(b) (2024); see also 86 FR 34154 (June 29, 2021). However, now that CEQ’s regulations have been repealed, it is exigent that DOI ensure procedures conform to the statute as amended by the FRA.

Finally, the Supreme Court has recently issued its decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), in which it described the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” “agency decisionmaking.” *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency conclusions underlying that agency’s NEPA process. *Id.* at 1513–14. The Court also acknowledged, and through its course correction sought to address, the effect judicial “micromanage[ment]” has had on “litigation-averse agencies” which have been “tak[ing] ever more time and . . . [prepar[ing] ever longer EISs [environmental impact statements] for future projects.” *Id.* at 1513. DOI, thus, is issuing this IFR to streamline its NEPA process in accordance with the Supreme Court’s decision and changes to the underlying statute. This revision has thus been called for, authorized, and directed by all three branches of government at the highest possible levels.

NEPA does not require Federal agencies to issue regulations implementing NEPA, but instead directs agencies to “identify and develop methods and procedures,” in coordination with CEQ, with respect to their environmental analysis of their proposed actions, *see* 42 U.S.C. 4332(2)(B). Both E.O. 14154 and E.O. 14192 direct agencies to ensure regulatory requirements are grounded in applicable law and to alleviate any unnecessary regulatory burdens, respectively. Consistent with the direction in these E.O.s to reduce unnecessary regulatory burdens, DOI will rescind portions of its NEPA

implementing regulations at 43 CFR part 46, while retaining and making targeted updates to certain provisions. Specifically, DOI intends to retain and make limited updates to provisions relating to emergency responses to ensure that DOI can respond timely to any such event and to avoid any confusion regarding the continued validity of this already-established provision for action in emergency situations (43 CFR 46.150); categorical exclusions and their use to avoid any instability in these vital procedures or uncertainty about the continued validity of its already-established categorical exclusions (43 CFR 46.205, 46.210, 46.215); and applicant and contractor preparation of environmental documents to provide a durable framework for the use of such documents (43 CFR 46.105, 46.107). All other provisions will be removed from 43 CFR part 46. Other than these few provisions, DOI's procedures will henceforth be contained in the *Department of the Interior Handbook: National Environmental Policy Act Implementing Procedures*, a copy of which is available in the docket listed under **ADDRESSES** above (but will not be codified in the CFR).

The Supreme Court could not have been clearer in *Seven County* that NEPA is a procedural statute. *See Seven County*, 145 S. Ct. at 1510 (“NEPA is purely procedural. . . . NEPA does not mandate particular results, but simply prescribes the necessary process for an agency’s environmental review of a project;”) (internal quotation omitted); *id.* at 1511 (NEPA is a *purely procedural statute*); *id.* at 1513 (NEPA is properly understood as “a modest procedural requirement”); *id.* at 1514 (“NEPA’s status as a purely procedural statute”); *see also id.* at 1507 (“Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.”). The history of DOI’s implementing regulations also reflects the understanding that they are procedural rules, for they were uncoded for over a decade before being codified “as a matter of good policy.” This is, moreover, consistent with the approach that several other Federal agencies have used for decades.

This action fulfills President Trump’s directive in E.O. 14154 for each agency to, in consultation with CEQ, revise its agency-level NEPA implementing procedures in light of the FRA. 90 CFR at 8355. This action implements E.O. 14154 and complies with the requirements of the Administrative Procedure Act (APA). DOI requests comment on the rescission of portions of its regulations implementing NEPA and its retention and targeted updates to

its remaining regulations implementing NEPA, as well as the *Department of the Interior Handbook: National Environmental Policy Act Implementing Procedures*, a copy of which is available in the docket listed under **ADDRESSES** above (but will not be codified in the CFR). This notice serves to provide fair notice to interested persons and to allow for public comment on DOI’s interim final rulemaking. Public comments on the matters addressed in this interim final rule are due by August 4, 2025. As explained in Section IV of this notice, DOI requests and encourages public comment on the rationale for this action and related matters that may inform DOI’s decision making.

A. National Environmental Policy Act

Congress enacted NEPA to declare a national policy “to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and [to] fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. 4331(a).

NEPA, as amended by the FRA, furthers this national policy by requiring Federal agencies to prepare an environmental impact statement—“in essence, a report”—for proposed “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. 4332(2)(C); *Seven County*, 145 S. Ct. at 1507. This statement must address: (1) The reasonably foreseeable environmental effects of the proposed agency action; (2) the reasonably foreseeable adverse environmental effects that cannot be avoided; (3) a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal; (4) the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of resources that would be involved in the proposed action. 42 U.S.C. 4332(2)(C).

NEPA further mandates that Federal agencies ensure the professional and scientific integrity of environmental documents; use reliable data and resources when carrying out NEPA; and study, develop, and describe technically and economically feasible alternatives.

42 U.S.C. 4332(2)(D)–(F). NEPA provides procedures for making threshold determinations about whether an environmental document must be prepared and the appropriate level of environmental review. 42 U.S.C. 4336(a)–(b).

NEPA does not mandate specific results or substantive outcomes. *Seven County*, 145 S. Ct. at 1507. Rather, NEPA requires Federal agencies to consider the environmental effects of proposed actions as part of agencies’ decision-making processes. As amended by the FRA, NEPA provides additional requirements to facilitate timely and unified Federal reviews, including provisions clarifying lead, joint lead, and cooperating agency designations, generally requiring the development of a single environmental document, directing agencies to develop procedures for project sponsors to prepare environmental assessments and environmental impact statements, and prescribing page limits and deadlines. 42 U.S.C. 4336a. NEPA also sets forth the circumstances under which agencies may rely on programmatic environmental documents, 42 U.S.C. 4663b, and adopt and use another agency’s categorical exclusions. 42 U.S.C. 4336c.

B. NEPA Regulations

1. Council on Environmental Quality (CEQ) NEPA Regulations

On January 20, 2025, President Trump issued E.O. 14154, *Unleashing American Energy*.¹ The E. O. revoked E.O. 11991, *Relating to protection and enhancement of environmental quality*,² which had directed CEQ to issue regulations implementing NEPA and required Federal agencies to comply with those regulations.³ E.O. 14154 also directed CEQ to provide guidance on implementing NEPA and propose rescinding CEQ’s NEPA regulations within 30 days of the order.⁴ CEQ issued an interim final rule rescinding CEQ’s NEPA implementing regulations (including as they relate to agency NEPA procedures) on February 25, 2025, effective April 11, 2025.⁵ Following CEQ’s provision of initial guidance, E.O. 14154 directs the Chairman of CEQ to convene a working group to coordinate the revision of

¹ 90 FR 8353 (Jan. 29, 2025) (“E.O. 14154”).

² 42 FR 26,967 (May 25, 1977).

³ E.O. 14154 at sec. 5.

⁴ *Id.* at sec 5(a). The guidance and any resulting agency implementing regulations must “expedite permitting approvals and meet deadlines established in the [FRA].” *Id.* at sec 5(c).

⁵ 90 FR 10,610 (Feb. 25, 2025).

agency-level NEPA implementing regulations for consistency.

2. DOI NEPA Regulations

Until 2008, DOI provided procedures for implementing NEPA in chapters of part 516 of the Department Manual. DOI periodically revised the Department Manual chapters containing NEPA procedures through a notice and comment process that involved publication of proposed and final revisions in the **Federal Register**, but did not promulgate as regulations the procedures contained in the Department Manual. In 2008, DOI promulgated regulations codifying DOI's NEPA procedures at 43 CFR part 46. In the preamble to the 2008 notice of proposed rulemaking,⁶ DOI explained that “[t]he Department believes that codifying the procedures in regulations that are consistent with NEPA and the CEQ regulations will provide greater visibility to that which was previously contained in the [Department Manual] DM and enhance cooperative conservation by highlighting opportunities for public engagement and input in the NEPA process.” 73 FR 61292. DOI retained additional explanatory guidance (as distinguished from agency implementing procedures) in the Department Manual and other Departmental guidance documents. Bureaus and offices (bureaus) of the Department continue to maintain Department Manual chapters in part 516 specific to their programs which supplement the DOI NEPA implementing procedures.

E.O. 14154 directs all agencies to prioritize efficiency and certainty over any other objectives and avoid and minimize delays and ambiguity in the permitting process. DOI's internal procedures and policies to guide compliance with NEPA will better advance the priorities articulated in E.O. 14154 and provide for quicker updates in policy implementation for bureaus to use than will retaining the NEPA implementing regulations.

Consolidating procedures with many other policies and guidance will also provide additional public transparency.

Moreover, DOI has decided that the flexibility to respond to new developments in this fast-evolving area of law, afforded by using non-codified procedures, outweighs the appeal of maintaining its NEPA procedures as regulations going forward. Notably, in this digitized age, while DOI codified its procedures as regulations, in part, to provide “greater visibility” to the public, DOI can—and will—ensure such

visibility simply by posting these procedures online, which removes the upside of codification. By contrast, not maintaining its procedures as regulations will enable it to rapidly update these procedures in response to future court decisions (such as *Seven County*) or Presidential directives (such as E.O. 14154). The balance thus tips decisively toward using a non-regulatory, but publicly accessible, procedural document. Because rescinding DOI's existing regulations without simultaneously adopting a replacement would likely cause uncertainty among regulated parties, the new procedures that DOI adopts today have informed its decision to rescind most of its prior regulations.

DOI's new NEPA implementing procedures are a more faithful implementation of the statute as amended in 2023 than its old procedures. They implement major structural features of the 2023 amendments, such as deadlines and page limits for environmental assessments and environmental impact statements, as directed at NEPA Section 107(g), and provide that DOI will complete preparation of these documents within the maximum length and on the timeline that Congress intends. They incorporate Congress's definition of “major Federal action” and the exclusions thereto, as codified at NEPA Section 111(10). They incorporate Congress's mandated procedure for determining the appropriate level of review under NEPA, as codified in NEPA Section 106. And they incorporate Congress's revision to the requirements for what an agency must address in its environmental impact statements, as codified at NEPA Section 102(2)(C), and Congress's requirement that public notice and solicitation of comment be provided when issuing a notice of intent to prepare an environmental impact statement, as directed at NEPA Section 107(c). All of these are crucial features of Congress's policy design and its purpose in the 2023 amendments that NEPA review be more efficient and certain.

Moreover, all of these respond to the President's directive in E.O. 14154; and all of these reflect the Supreme Court's recent and unequivocal statement that NEPA is a purely procedural statute. DOI is conscious of the Supreme Court's admonition that NEPA review has grown out of all proportion to its origins as a “modest procedural requirement,” creating, “under the guise of just a little more process,” “[d]elay upon delay, so much so that the process seems to ‘borde[r] on the Kafkaesque.’” *Seven County*, 145 S. Ct. at 1513–14 (internal

quotation omitted). These procedures, therefore, attempt to align NEPA with its Congressionally mandated dimensions, reflecting the guidance given also by the President and the Supreme Court, and making review under it faster, more flexible, and more efficient.

In reaching this decision, DOI acknowledges that third parties may claim to have reliance interests in DOI's existing NEPA procedures. But revised agency procedures will have no effect on ongoing NEPA reviews, where DOI, following CEQ guidance, will continue to apply the preexisting procedures to applications that are sufficiently advanced. Moreover, as the Supreme Court has just explained, NEPA “is a purely procedural statute” that “imposes no substantive environmental obligations or restrictions.” *Seven County*, 145 S. Ct. at 1507. To the extent any asserted reliance interests are grounded in substantive environmental concerns, such interests are entitled to “no. . . weight.” *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 891, 1914 (2020).

Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in *prospective* procedures. To the extent such interests exist, the Department holds that they are “outweigh[ed]” by “other interests and policy concerns.” *Id.* Namely, the complex web of regulations that preexisted the 2023 amendments to NEPA and these new procedures repeatedly “led to more agency analysis of separate projects, more consideration of attenuated effects, more exploration of alternatives to proposed agency action, more speculation and consultation and estimation and litigation,” which in turn has meant that “[f]ewer projects make it to the finish line,” or even “to the starting line.” *Seven County*, 145 S. Ct. at 1513–14. This has increased the cost of projects dramatically, “both for the agency preparing the EIS and for the builder of the project,” resulting in systemic harms to America's infrastructure and economy. *Id.* Correspondingly, the wholesale revision and simplification of this regime, effectuated by the revision of DOI's NEPA procedures and relocation of them to the *Department of the Interior Handbook: National Environmental Policy Act Implementing Procedures*, is necessary to ensure efficient and predictable reviews, with significant upsides for the economy and for projects of all sorts. This set of policy considerations drastically outweighs any claimed reliance interests in the preexisting procedures.

⁶ 73 FR 126 (Jan. 2, 2008).

DOI has revised its NEPA implementing procedures to conform to the 2023 statutory amendments, to respond to President Trump's direction in E.O. 14154, and to address the pathologies of the NEPA process and NEPA litigation identified by the Supreme Court.

Where DOI has retained an aspect of its preexisting NEPA implementing procedures, it is because that aspect is compatible with these guiding principles; where DOI has revised or removed an aspect, it is because that aspect is not compatible.

II. Discussion of Regulatory Changes

A. Removing NEPA Procedures From Regulation

NEPA requires that all Federal agencies identify and develop methods and procedures, in consultation with CEQ, that will ensure that unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations. 42 U.S.C. 4332(2)(B). The statutory amendments to NEPA under the FRA also refer to agency NEPA procedures.⁷ Federal agencies have developed varying forms of NEPA implementing procedures, some in regulation and some in other forms of procedural documents. DOI's revised NEPA procedures, developed in consultation with CEQ and in coordination with other Federal agencies for consistency across the Federal government, will facilitate compliance with the statutory obligations of NEPA.

B. Retaining and Revising Certain Provisions

The rule removes most of the existing DOI NEPA regulations in favor of relying on Departmental guidance for the reasons discussed above, but the rule retains and makes targeted updates to its regulations that authorize three tools that DOI bureaus may rely on to expedite NEPA reviews and ensure that compliance with NEPA is achieved in an efficient manner.

1. Emergency Responses

First, DOI is retaining 43 CFR 46.150, which allows bureaus to respond to emergencies while either forgoing NEPA analysis so as to allow the bureau to take actions "urgently needed to mitigate harm to life, property, or important natural, cultural, or historic resources" and use alternative arrangements for NEPA compliance to take other actions beyond those immediately necessary to protect life,

property, and resources in response to emergencies. The rule makes minor clarifying adjustments to the text that reflect DOI's experience implementing these provisions. The adjustments do not change the meaning of the provisions.⁸

2. Categorical Exclusions

Next, DOI is retaining 43 CFR 46.205, 46.210, and 46.215, which establish Departmental categorical exclusions and lay out the procedures for relying on a categorical exclusion to comply with NEPA. Categorical exclusions represent those categories of actions that DOI has determined normally do not significantly affect the environment. Categorical exclusions provide important efficiency by ensuring that many agency actions are not subjected to the lengthy NEPA process and can proceed using the significantly truncated process identified in the DOI NEPA regulations for determining that a categorical exclusion applies and ensuring that no "extraordinary circumstances" are present that would preclude reliance on the categorical exclusion. Section 46.210 will continue to identify Departmental categorical exclusions while additional, bureau-specific categorical exclusions are identified in guidance documents.

Although DOI is largely retaining these provisions in regulation, the rule revises them to eliminate from the regulations certain categorical exclusions that are not used across the Department and to refine certain other extraordinary circumstances that, when present, would preclude reliance on a categorical exclusion. Section 46.205 includes new paragraphs (e), (f), (g), (h), (i), and (j) providing how DOI bureaus may rely on categorical exclusion determinations made by other agencies, may apply multiple categorical exclusions to a single action, and may rely on a categorical exclusion administratively established or adopted by another DOI bureau; the procedures governing the establishment, modification, or removal of categorical exclusions from NEPA procedures; and the clarification that any such establishment, modification, or removal does not itself have any environmental effects for purposes of NEPA. In Section 46.210, the rule removes paragraphs (k) and (l), which describe categorical exclusions for hazardous fuels reduction activities using prescribed fire and post-fire rehabilitation activities,

respectively. These categorical exclusions will continue to be identified in bureau-specific NEPA procedures, and those bureaus may then continue to rely on them for purposes of NEPA compliance, but they are not properly considered Departmental categorical exclusions.

In Section 46.215, which lists the "extraordinary circumstances" that, if present preclude reliance on a categorical exclusion, the rule removes existing paragraphs (c), (i), and (j), and then renumbers the remaining paragraphs. Paragraph (c) provides that an extraordinary circumstance is present if an action may "[h]ave highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources." 43 CFR 46.215(c). This provision causes confusion as it has been frequently misunderstood to mean that any controversy surrounding the substance of the action itself constitutes an extraordinary circumstance. The provision is intended only to provide that controversy about the nature and magnitude of the environmental effects of the action constitutes an extraordinary circumstance. In any event, the concept is sufficiently addressed in existing paragraph (d) (which this rule renumbers as paragraph (c)).

Paragraph (i) provides that an extraordinary circumstance is present if an action may "[v]iolate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment." 43 CFR 46.215(i). Whether a proposed Federal action may violate a law imposed for the protection of the environment is a question that goes beyond the procedural requirements of NEPA and may be better considered and appropriately addressed by the Responsible Officer when making the decision on the proposed action. While a proposed action's inconsistency with such a law should be appropriately considered in the agency decision-making process—and may suggest that that the proposed action should not be approved—it is not relevant to the determination of whether the proposed action may have significant environmental effects.

Paragraph (j) was promulgated in response to E.O. 12898, *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations* (Feb. 11, 1994). That E.O. was rescinded by E. O. 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity* (Jan. 21, 2025). Therefore, it is appropriate to remove the associated provision in Section 46.215.

⁸ Executive Order 14156, *Declaring a National Energy Emergency* (Jan. 20, 2025); Secretary's Order 3417, *Addressing the National Energy Emergency* (Feb. 3, 2025).

⁷ 42 U.S.C. 4336a(f), 4336c.

In addition, all references to E.O.s in the DOI list of extraordinary circumstances are removed. These E.O.s could change over time or could unduly limit the review of the resources listed, not allowing for more relevant information to be considered in the extraordinary circumstances review for a proposed action.

3. Applicant- and Contractor-Prepared Environmental Documents

Finally, DOI is retaining and revising Section 46.105 and adding Section 46.107, which set standards and procedures that apply when DOI bureaus hire contractors to prepare environmental assessments, environmental impact statements, or other environmental information; or rely on applicants to prepare environmental information, including environmental assessments or environmental impact statements. The FRA provides that agencies may develop procedures to allow for the preparation of environmental assessments and environmental impact statements by applicants for Federal approvals. DOI already has a regulation allowing for bureaus to rely on applicant-prepared environmental assessments. The revisions made by this rule would extend that allowance to applicant-prepared environmental impact statements while also adding standards and procedures to ensure that the process for using applicant-prepared environmental assessments and environmental impact statements is both efficient and legally defensible. For similar reasons, additional standards and procedures have been added to the regulation governing bureau use of environmental information or documents prepared by contractors engaged directly by the bureaus.

III. Basis for Issuing an Interim Final Rule

A. Notice-and-Comment Rulemaking Is Not Required

DOI is repealing its prior regulations that establish procedures and practices for implementing NEPA, a “purely procedural statute” which “simply prescribes the necessary process’ for an agency’s environmental review of a project”—a review that is, even in its most rigorous form, “only one input into an agency’s decision and does not itself require any particular substantive outcome.” *Seven County*, 145 S. Ct. at 1507, 1511 (internal quotation omitted). “NEPA imposes no *substantive* constraints on the agency’s ultimate decision to build, fund, or approve a proposed project,” and “is relevant only

to the question of whether an agency’s final decision”—*i.e.*, that decision to authorize, fund, or otherwise carry out a particular proposed project or activity—“was reasonably explained.” *Id.* at 1511. As such, notice and comment procedures are not required because this revision falls within the APA exception for “rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A). DOI’s existing NEPA regulations do not dictate what actions to take or policies to adopt. Rather, they prescribe how bureaus should conduct their NEPA reviews: detailing the application of NEPA, timing of environmental impact statements, and specifying other procedural requirements.⁹ These are procedural provisions, not substantive environmental ones, and they apply exclusively to internal DOI processes. And because procedural rules do not require notice and comment, absent a specific provision of law requiring such procedures, they do not require notice and comment to be rescinded. *See* 5 U.S.C. 553(b)(A). Indeed, DOI recognized as much even when initially promulgating them: DOI was explicit that the department was codifying its procedures because it “believes that codifying the procedures in regulations that are consistent with NEPA and the CEQ regulations will provide greater visibility to that which was previously contained in the DM and enhance cooperative conservation by highlighting opportunities for public engagement and input in the NEPA process.” 73 FR 61292.

Just so, DOI’s new procedures will also be purely procedural and guide internal agency compliance with NEPA. Indeed, it is hard to see how they could be otherwise, since the Supreme Court has recently repeatedly emphasized that “NEPA is a purely procedural statute.” *Seven County*, 145 S. Ct. at 1507; *see id.* at 1510 (“NEPA is a purely procedural. . . . NEPA ‘does not mandate particular results, but simply prescribes the necessary process’ for an agency’s environmental review of a project.”); *id.* at 1511 (NEPA is a *purely procedural statute*); *id.* at 1513 (NEPA is properly understood as “a modest procedural requirement”); *id.* at 1514 (“NEPA’s status as a purely procedural statute”); *see also id.* at 1507 (“Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.”). Procedures for implementing a purely procedural statute must be, by their nature, procedural rules. Surely, they cannot be legislative rules; as such, they do not need to be promulgated via notice-and-

comment rulemaking. *See* 5 U.S.C. 553(b)(A). And even if that were not universally true, the new rules adopted in this notice *are* purely procedural.

Moreover, even if (and to the extent that) DOI’s regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy under 5 U.S.C. 553(b)(A). An interpretative rule provides an interpretation of a statute, rather than making discretionary policy choices that establish enforceable rights or obligations for regulated parties under delegated congressional authority. The definitions sections of both the old and new procedures, for instance, may be classified as such. General statements of policy provide notice of an agency’s intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. The prefatory sections of both the old and new procedures, for instance, may be classified as general statements of policy. Both of these types of agency action are expressly exempted from notice and comment by statute. 5 U.S.C. 553(b)(A), and so do not require notice and comment for their removal.

Accordingly, although DOI is voluntarily providing notice and an opportunity to comment on this interim final rule, the agency has determined that notice-and-comment procedures are not required. The fact that DOI previously undertook notice-and-comment rulemaking in promulgating these regulations is immaterial: As the Supreme Court has held, where notice-and-comment procedures are not required, prior use of them in promulgating a rule does not bind the agency to use such procedures in repealing it. *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 101 (2015).

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

Moreover, DOI also finds that, to the extent that prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the need to expeditiously replace its existing regulations satisfies the “good cause” exceptions in 5 U.S.C. 553(b)(B) and (d). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is “impracticable, unnecessary, or contrary to the public interest,” 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). As discussed in Sections I &

⁹ See 43 CFR part 46.

II, above, DOI's prior rules were promulgated as a "supplement . . . to be used in conjunction with," 43 CFR 46.20, CEQ's NEPA regulations. Following the rescission of CEQ's regulations, DOI's current rules are left hanging in air, supplementing a NEPA regime that no longer exists. DOI, thus far and as a temporary, emergency measure, has been continuing to operate under its prior procedures *as if* the CEQ NEPA regime still existed. This is not, however, tenable. As soon as updated non-regulatory procedures were available—which they are now—Interior must immediately rescind its duplicative or inconsistent regulations that compose this makeshift regime.

For the same reasons stated in the present section, above, DOI finds that "good cause" exists under 5 U.S.C. § 553(d)(3) to forgo the 30-day delay of the effective date that would otherwise be required to rescind regulations in their entirety. This interim final rule and the new procedural document that accompanies it will accordingly be effective immediately.

C. DOI Solicits Comment

As explained above, comment is not required because DOI's NEPA procedures were and are procedural and because, even if comment were otherwise required under the APA, good cause exists to forgo it. Nevertheless, DOI has elected voluntarily to solicit comment. DOI is soliciting comment on this interim final rule and its new procedures, which are available for review at www.regulations.gov, docket number 2025–0004. DOI may make further revisions to its NEPA implementing procedures, if DOI's review of any comments submitted suggests that further revisions are warranted. Commenters have 30 days from the date of publication of this interim final rule to submit comments.

IV. Regulatory Analyses and Notices

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

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal Government's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this interim final rule is a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and has reviewed.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended, (RFA), 5 U.S.C. 601 *et seq.*, and E.O. 13272 generally require agencies to assess the impacts of final rules on small entities by preparing a regulatory flexibility analysis. Under the RFA, small entities include small businesses, small organizations, and small governmental jurisdictions. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this interim final rule, the RFA does not apply.

Even if the RFA applies, this rule does not directly regulate small entities. Rather, the rule applies to Federal agencies and sets forth the process for their compliance with NEPA. Accordingly, DOI hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities.

C. Environmental Analysis

DOI has determined that the rule will not have a significant effect on the environment because it will not authorize any specific agency activity or commit resources to a project that may affect the environment. Therefore, DOI does not intend to conduct a NEPA analysis of this interim final rule. In addition, DOI has determined that its categorical exclusion (CE) at 43 CFR 46.210(i) covers this rulemaking. The CE covers policies, directives, regulations, and guidelines that are "of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case." Further, the proposed rule does not implicate any of the extraordinary circumstances listed in 43 CFR 46.215.

D. Executive Order 13132, Federalism

E.O. 13132 requires agencies to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. Policies that have federalism implications include regulations that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim final rule does not have federalism

implications because it applies to Federal agencies, not States.

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

E.O. 13175 requires agencies to have a process to ensure meaningful and timely input by Tribal officials in the development of policies that have Tribal implications. Such policies include regulations that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This interim final rule is not a regulatory policy that has Tribal implications because it does not impose substantial direct compliance costs on Tribal governments (section 5(b)) and does not preempt Tribal law (section 5(c)).

F. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

Agencies must prepare a Statement of Energy Effects for significant energy actions under E.O. 13211. This interim final rule is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

G. Executive Order 12988, Civil Justice Reform

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

H. Unfunded Mandates Assessment

Section 201 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531) requires Federal agencies to assess the effects of their regulatory actions on State, Tribal, and local governments and the private sector to the extent that such regulations incorporate requirements specifically set forth in law. Before promulgating a rule that may result in the expenditure by a State, Tribal, or local government, in the aggregate, or by the private sector of \$100 million, adjusted annually for inflation, in any one year, an agency must prepare a written statement that assesses the effects on State, Tribal, and local governments and the private sector. 2

U.S.C. 1532. This interim final rule applies to Federal agencies and would not result in expenditures of \$100 million or more by State, Tribal, and local governments, in the aggregate, or the private sector in any one year. This action also does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments.

I. Paperwork Reduction Act

This interim final rule does not impose any new information collection burden that would require additional review or approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 43 CFR Part 46

Environmental protection;
Environmental impact statements.

Karen Budd-Falen,

Associate Deputy Secretary.

■ For the reasons stated in the preamble, under the authority of NEPA, as amended (42 U.S.C. 4321–4347), the Office of the Secretary revises part 46 of title 43 of the Code of Federal Regulations to read as follows:

PART 46—IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Sec.

Subpart A—[Reserved]

Subpart B—Protection and Enhancement of Environmental Quality

- 46.105 Using a bureau-directed contractor to prepare environmental documents.
- 46.107 Procedures for applicant-prepared environmental impact statements and environmental assessments.
- 46.150 Emergency responses.

Subpart C—Initiating the NEPA Process

- 46.205 Actions categorically excluded from further NEPA review.
- 46.210 Listing of Departmental categorical exclusions.
- 46.215 Categorical exclusions:
Extraordinary circumstances.

Subpart D—[Reserved]

Subpart E—[Reserved]

Authority: 42 U.S.C. 4321–4347

Subpart A—[Reserved]

Subpart B—Protection and Enhancement of Environmental Quality

§ 46.105 Using a bureau-directed contractor to prepare environmental documents.

(a) A Responsible Official may use a bureau-directed contractor to prepare any environmental document.

(b) If a Responsible Official uses a bureau-directed contractor, the Responsible Official remains responsible for:

(1) Preparation and adequacy of the environmental documents; and

(2) Independent evaluation of the environmental documents after their completion. The Responsible Official must briefly document the bureau's evaluation of the environmental document and ensure that it meets the standards under NEPA, this Part, and any Departmental or bureau-specific procedures or guidance.

(c) The Responsible Official shall require any bureau-directed contractor preparing an environmental document to submit a professional integrity statement certifying that the environmental document is prepared with professional and scientific integrity, using reliable data and resources, and meets bureau needs for decision-making. In addition, the Responsible Official shall require any bureau-directed contractor preparing an environmental document to submit a disclosure statement specifying that the contractor has no financial or other interest in the outcome of the action.

§ 46.107 Procedures for applicant-prepared environmental impact statements and environmental assessments.

In accordance with NEPA section 107(f), 42 U.S.C. 4336a(f), the following procedures are established for bureaus to allow applicants, or contractors directed by applicants, to prepare environmental impact statements and environmental assessments under bureau supervision when the bureau is the Federal lead agency.

(a) A Responsible Official has discretion to allow an applicant or applicant-directed contractor to prepare an environmental impact statement or an environmental assessment (including analysis supporting these documents). A bureau may request more information, revise analysis methodologies, or choose not to use an environmental impact statement or an environmental assessment prepared by an applicant or its contractor at any time.

(b) Applicants or applicant-directed contractors may not prepare decision documents, including records of decision.

(c) The Responsible Official remains responsible for the accuracy, scope, and content of the environmental impact statement or environmental assessment and must independently evaluate and approve each such analysis before the bureau may use it. To maintain the scientific quality and integrity of the impact assessment, if in-house expertise

is not available for the technical evaluations, another bureau or cooperating agency may be used, as needed, to verify the analyses if potential significance of an effect or issue is not clear.

(d) Prior to a Responsible Official initiating the preparation of an environmental impact statement or an environmental assessment proposed to be prepared by an applicant or an applicant-directed contractor, the bureau must engage with the applicant and provide written documentation outlining the bureau's expectations regarding roles, responsibilities, the project schedule, coordination, deliverables (including draft and final documents), and supervision. Such engagement must occur within 30 days of the date initiating the preparation of an environmental impact statement or an environmental assessment.

(e) If a Responsible Official uses information from an applicant or applicant-directed contractor to prepare an environmental impact statement or environmental assessment, the bureau must independently evaluate and provide written concurrence to the applicant or applicant-directed contractor documenting that the information submitted meets the standards under NEPA, this Part, and any Departmental or bureau-specific NEPA procedures or guidance. If a Responsible Official uses any of the following information prepared by an applicant or applicant-directed contractor in initiating a review, such information must be submitted in writing to the Responsible Official for independent evaluation prior to initiating the NEPA process:

- (1) The purpose and need for the proposed action;
- (2) The proposed action and reasonable alternatives to the proposed action;
- (3) A community and stakeholder engagement plan;
- (4) Anticipated permits and authorizations required for the proposed action;
- (5) Anticipated cooperating agencies;
- (6) The process for consultations with relevant Federal agencies and State, Tribal, and local governments to ensure compliance with environmental laws and regulations.
- (7) Anticipated issues and resources to be analyzed in the environmental impact statement or environmental assessment, and summary of analysis methodology, as applicable; and
- (8) Schedule.

(f) If a Responsible Official uses an environmental impact statement or environmental assessment prepared by

an applicant or applicant-directed contractor, the Responsible Official must independently evaluate and verify that the environmental analysis, including the methodologies used by the applicant or applicant-directed contractor, meets bureau standards and complies with NEPA, this Part, and any applicable Departmental or bureau-specific NEPA procedures or guidance. The applicant or applicant-directed contractor must provide the bureau with all relevant supporting information, including all studies, surveys, and technical reports pertaining to the environment prepared by the applicant or applicant-directed contractor for the proposed action. The applicant or applicant-directed contractor must certify that the materials provided to the bureau are complete for the bureau's independent review and inclusion in its decision file. The Responsible Official shall document the bureau's review and determination in any bureau-approved environmental impact statement or environmental assessment. The bureau is responsible for publishing all environmental impact statements and environmental assessments and, if an action is administratively or judicially challenged, for using the materials in its decision file to prepare an administrative record.

(g) The Responsible Official shall require any applicant or applicant-directed contractor preparing an environmental impact statement or environmental assessment to submit a professional integrity statement certifying that the environmental analysis is prepared with professional and scientific integrity, using reliable data and resources, and meets any relevant Federal information quality standards and bureau needs for decision-making. In addition, the Responsible Official shall require any applicant or applicant-directed contractor preparing an environmental impact statement or an environmental assessment to submit a disclosure statement specifying any financial or other interest the entity has in the outcome of the action.

Bureaus must publish or otherwise provide bureau-specific policy information to assist applicants preparing environmental impact statements or environmental assessments. Bureaus may provide additional guidance to Responsible Officials describing how to document the independent evaluation of environmental impact statements and environmental assessments to ensure that they meet the standards under NEPA and these implementing procedures.

§ 46.150 Emergency responses.

This section applies only if the Responsible Official determines that an emergency exists that makes it necessary to take urgently needed actions before preparing an environmental document or documenting its use of a categorical exclusion in accordance with the provisions in this chapter.

(a) The Responsible Official may take those actions necessary to control the immediate impacts of the emergency that are urgently needed to mitigate harm to life, property, or important natural, cultural, or historic resources. When taking such actions, the Responsible Official shall consider the probable environmental consequences of these actions and mitigate reasonably foreseeable adverse environmental impacts to the extent practicable.

(b) The Responsible Official shall document in writing the determination that an emergency exists and describe the responsive actions taken at the time the emergency exists. The form of that documentation is within the discretion of the Responsible Official.

(c) If the Responsible Official determines that the nature and scope of proposed actions that must be taken beyond actions noted in paragraph (a) of this section but in response and relation to such emergency action preclude preparation of an environmental document, the Responsible Official must consult with the Office of Environmental Policy and Compliance about alternative arrangements for NEPA compliance for such additional responsive actions. The Assistant Secretary, Policy Management and Budget may authorize the use of alternative arrangements. Reliance on any such alternative arrangements shall apply only to the proposed actions necessary to control the immediate actions in response and related to the emergency beyond those noted in paragraph (a) of this section and must be documented. Consultation with the Office of Environmental Policy and Compliance and with the Assistant Secretary, Policy Management and Budget must be coordinated through the appropriate bureau headquarters.

(d) For actions meeting the criteria noted in paragraph (c) of this section that the Responsible Official reasonably foresees would be likely to result in significant effects, the Assistant Secretary, Policy Management and Budget or their designee must consult with the Council on Environmental Quality prior to authorizing the use of alternative arrangements for compliance with NEPA section 102(2)(C), 42 U.S.C. 4332(2)(C).

(e) Other proposed actions remain subject to compliance with NEPA and the remaining sections of this Part.

Subpart C—Initiating the NEPA Process

§ 46.205 Actions categorically excluded from further NEPA review.

Categorical Exclusion means a category of actions that a bureau has determined normally do not significantly affect the quality of the human environment.

(a) Except as provided in paragraph (c) of this section, if an action is covered by a Departmental categorical exclusion, the bureau is not required to prepare an environmental assessment or an environmental impact statement. If a proposed action does not meet the criteria for any of the listed Departmental categorical exclusions or any of the individual bureau categorical exclusions, then the proposed action must be analyzed in an environmental assessment or environmental impact statement.

(b) The actions listed in § 46.210 are categorically excluded, Department-wide, from preparation of environmental assessments or environmental impact statements.

(c) DOI has provided for extraordinary circumstances in which a normally excluded action may have a significant environmental effect and require additional analysis. Section 46.215 lists the extraordinary circumstances under which actions otherwise covered by a categorical exclusion require analyses under NEPA.

(1) Any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances in § 46.215; if it does, further analysis and environmental documents must be prepared for the action.

(2) Bureaus must work within existing administrative frameworks, including any existing programmatic agreements, when deciding how to apply any of the § 46.215 extraordinary circumstances.

(d) Congress may establish categorical exclusions by legislation, in which case the terms of the legislation determine how to apply those categorical exclusions.

(e) A Responsible Official may rely on another agency's determination that a categorical exclusion applies to a particular proposed action if the action covered by that determination and the bureau proposed action are substantially the same. The Responsible Official need not conduct extraordinary circumstances review according to the protocol set forth at § 46.215 but must

document any reliance on another agency's categorical exclusion determination. When more than one agency is reviewing a proposed action, a bureau may also reach and document a joint determination with another agency that a categorical exclusion applies to the action.

(f) *Applying multiple categorical exclusions.* Bureaus may apply multiple categorical exclusions in combination to cover a single proposed action. In some circumstances, the combination of categorical exclusions can cover all elements of a proposed action and support the bureau's determination that the effects of the proposed action, with all its elements, are not reasonably foreseeably to be significant. When a bureau completes its review of a proposed action in reliance on multiple categorical exclusions, the bureau must concisely document this reliance, including review for the presence of extraordinary circumstances that, if present, would preclude application of the categorical exclusions to the proposed action.

(g) Each bureau may rely on any categorical exclusion administratively established or adopted, under NEPA section 109, 42 U.S.C. 4336c, by the Department or any bureau within the Department.

(h) To establish or revise a categorical exclusion, the Department will determine that the action is of a type that normally does not significantly affect the quality of the human environment. In making this determination and identifying and describing such a category, the Department will:

(1) Develop a written record containing information to substantiate its determination;

(2) Consult with the Council on Environmental Quality on its proposed categorical exclusion, including the written record, for a period not to exceed 30 days prior to providing public notice as described in subparagraph (3); and

(3) Provide public notice in the **Federal Register** of establishment of the categorical exclusion and the location of availability of the written record.

(i) *Removal of categorical exclusions.* To remove a categorical exclusion from its NEPA procedures, the Department will follow steps similar to those by which it establishes or revises a categorical exclusion.

(j) Neither the establishment nor the modification or removal of a categorical exclusion from bureau NEPA procedures is subject to NEPA review.

§ 46.210 Listing of Departmental categorical exclusions.

The following actions are categorically excluded under § 46.205(b), unless any of the extraordinary circumstances in § 46.215 apply and reliance on any of them to support approval of a proposed action need not be documented:

(a) Personnel actions and investigations and personnel services contracts.

(b) Internal organizational changes and facility and bureau reductions and closings.

(c) Routine financial transactions including such things as salaries and expenses, procurement contracts (*e.g.*, in accordance with applicable procedures and Executive Orders for sustainable or green procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.

(d) Departmental legal activities including, but not limited to, such things as arrests, investigations, patents, claims, and legal opinions. This does not include bringing judicial or administrative civil or criminal enforcement actions which are outside the scope of NEPA.

(e) Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research, and monitoring activities.

(f) Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (*e.g.*, limited size and magnitude or short-term effects).

(g) Management, formulation, allocation, transfer, and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)

(h) Legislative proposals of an administrative or technical nature (including such things as changes in authorizations for appropriations and minor boundary changes and land title transactions) or having primarily economic, social, individual, or institutional effects; and comments and reports on referrals of legislative proposals.

(i) Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA

process, either collectively or case-by-case.

(j) Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.

§ 46.215 Categorical exclusions: Extraordinary circumstances.

Extraordinary circumstances (see § 46.205(c)) exist for individual actions within categorical exclusions that may meet any of the criteria listed in paragraphs (a) through (i) of this section. Applicability of extraordinary circumstances to categorical exclusions is determined by the Responsible Official. If an extraordinary circumstance is not present, the Responsible Official may determine that the categorical exclusion applies to the proposed action and conclude review.

(a) Have significant impacts on public health or safety.

(b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands; floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.

(c) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

(d) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

(e) Have a direct relationship to other actions that implicate potentially significant environmental effects.

(f) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.

(g) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species.

(h) Significantly limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites.

(i) Contribute to potentially significant effects resulting from the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the

area or from other actions that promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act).

Subpart D—[Reserved]

Subpart E—[Reserved]

[FR Doc. 2025–12433 Filed 7–1–25; 2:30 pm]

BILLING CODE 4334–63–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 520

[Docket No. NHTSA–2025–0160]

RIN 2127–AM35

Rescission of NHTSA's 1975 Procedures for Considering Environmental Impacts

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule rescinds the National Highway Traffic Safety Administration's (NHTSA) 1975 Procedures for Considering Environmental Impacts from the Code of Federal Regulations because they are outdated, because they were promulgated on the basis of authorities that have been rescinded, and because the Department of Transportation has promulgated updated Department-wide National Environmental Policy Act (NEPA) procedures that will guide NHTSA's NEPA process.

DATES: This interim rule is effective on July 3, 2025. Written comments must be received by August 4, 2025.

ADDRESSES: You may submit comments electronically to the docket identified in the heading of this document by visiting the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Alternatively, you can file comments using the following methods:

- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.

- **Hand Delivery or Courier:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Regardless of how you submit your comments, you should mention the docket number identified in the heading of this document.

Instructions: All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>. You may also access the docket at 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 Federal Holidays. Telephone: 202–366–9826.

Confidential Business Information: If you claim that any of the information in your comment (including any additional documents or attachments) constitutes confidential business information within the meaning of 5 U.S.C. 552(b)(4) or is protected from disclosure pursuant to 18 U.S.C. 1905, please see the detailed instructions given under the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy Act: Please see the Privacy Act heading under the Regulatory Analyses section of this document.

FOR FURTHER INFORMATION CONTACT: You may contact Stephanie Walters by email at stephanie.walters@dot.gov or by telephone at 202–819–3642. Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

The National Highway Traffic Safety Administration (NHTSA), an agency within the U.S. Department of Transportation (DOT), adopted its own National Environmental Policy Act (NEPA) implementing procedures in 1975 at 49 CFR part 520 (“1975

procedures”), as directed by Executive Order (E.O.) 11514, *Protection and Enhancement of Environmental Quality* (35 FR 4245 (Mar. 7, 1970)), and the Council on Environmental Quality's Guidelines of April 23, 1971 (36 FR 7724). NHTSA's 1975 procedures established the initial framework for conducting NHTSA-specific environmental reviews on its rulemakings and regulatory actions.

Subsequently, E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967 (May 24, 1977)), amended E.O. 11514 to require the Council on Environmental Quality (CEQ) to issue binding regulations for NEPA compliance, which it did at 40 CFR parts 1500–1508 (CEQ regulations). Among other sections, 40 CFR 1500.3 stated that the CEQ regulations were applicable to and binding on all Federal agencies for implementing the procedural provisions of NEPA. Accordingly, NHTSA has followed NEPA's statutory requirements, its 1975 procedures to the extent they were previously consistent with law, and CEQ's NEPA implementing regulations to assess the environmental impacts of the agency's actions.

II. Basis for Removing the NHTSA NEPA Regulation

NHTSA has determined that it is appropriate to remove its 1975 procedures because the regulations are no longer consistent with the governing laws and orders relevant to NEPA, which have changed significantly since 1975. NHTSA's 1975 procedures were established pursuant to E.O. 11514 and CEQ's 1971 Guidelines (36 FR 7724). E.O. 11514 was amended by E.O. 11991, which has now been rescinded by E.O. 14154, *Unleashing American Energy* (90 FR 8353 (Jan. 29, 2025)). CEQ's 1971 Guidelines, which were the basis for CEQ's NEPA Implementing Regulations at 40 CFR parts 1500 *et seq.*, have also been repealed. *See Removal of National Environmental Policy Act Implementing Regulations*, (90 FR 10610 (Feb. 25, 2025)). These circumstances raise questions concerning the legal basis for NHTSA to maintain its 1975 procedures and create a need for NHTSA, which had long relied on CEQ's regulations in administering NEPA, *see supra*, to modernize and update its own regulations.

Further, the Fiscal Responsibility Act of 2023 (FRA 2023), Public Law 118–5, amended NEPA to provide more detailed procedures for environmental reviews. The FRA 2023 amendments require agencies to facilitate timely and unified Federal reviews, develop a

single environmental document as appropriate, and comply with page limits and deadlines. FRA 2023 also outlines guidelines for using programmatic environmental documents and a streamlined process for adopting another agency's categorical exclusions. NHTSA's 1975 procedures do not incorporate the FRA 2023 amendments that require the agency to conduct more effective and efficient environmental reviews.

E.O. 14154 instructed CEQ to provide guidance on implementing NEPA to expedite and simplify the permitting process and to meet deadlines established in FRA 2023. The E.O. also directed all agencies to prioritize efficiency and certainty over any other objectives. NHTSA's 1975 procedures do not conform with E.O. 14154, and applying those procedures would be inconsistent with the directives in E.O. 14154—to conduct environmental reviews in a timely and efficient manner.

Finally, the Supreme Court on May 29, 2025, issued *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), in which it described the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” “agency decisionmaking.” *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to an agency's reasonable conclusions underlying its NEPA process. *Id.* at 1513–14. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” that, in light of judicial “micromanage[ment],” had been “tak[ing] ever more time and [] prepar[ing] ever longer EISs for future projects.” *Id.* at 1513. NHTSA, thus, is issuing this IFR to align its actions with the Supreme Court's decision and streamline its process of ensuring reasonable NEPA decisions.

NHTSA finds that each of the reasons stated above independently make the agency's 1975 procedures outdated and inoperative. Accordingly, NHTSA has determined that it is most appropriate to remove its 1975 procedures.

In light of recent directives and the repeal of CEQ's NEPA Implementing Regulations, DOT has updated its NEPA implementing procedures (DOT Order 5610.1D, “Departmentwide National Environmental Policy Act Implementing

Procedures”) to be applicable to NHTSA and several other DOT operating administrations and which will now serve as the primary procedures for implementing NHTSA environmental reviews. Subpart D of DOT Order 5610.1D includes NHTSA-specific NEPA procedures. The action taken under this interim final rule will avoid duplication and maintain consistency with the departmentwide NEPA implementing procedures, which aid efficiency, improve the timely completion of the environmental review process, and refocus agency practice on fostering informed decisionmaking.

NHTSA acknowledges that third parties may claim to have reliance interests in NHTSA's existing NEPA procedures. But revised agency procedures will have no effect on ongoing NEPA reviews, where NHTSA, following CEQ guidance, has held it will continue to apply existing applications. Moreover, as the Supreme Court has just explained, NEPA “is a purely procedural statute” that “imposes no substantive environmental obligations or restrictions.” *Seven County*, 145 S. Ct. at 1507. Any asserted reliance interests grounded in substantive environmental concerns are not in accord with the best meaning of the law and are entitled to “no . . . weight.” *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1914 (2020).

Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in *prospective* procedures. To the extent such interests exist, the Court concludes that they are “outweigh[ed]” by “other interests and policy concerns.” *Id.* Namely, the complex web of regulations that preexisted the 2023 amendments to NEPA and the revised DOT repeatedly “led to more agency analysis of separate projects, more consideration of attenuated effects, more exploration of alternatives to proposed agency action, more speculation and consultation and estimation and litigation,” which in turn has meant that “[f]ewer projects make it to the finish line,” or even “to the starting line.” *Seven County*, 145 S. Ct. at 1513–14. This has increased the cost of projects dramatically, “both for the agency preparing the EIS and for the builder of the project,” resulting in systemic harms to America's infrastructure and economy. *Id.* at 1514. Correspondingly, the wholesale revision and simplification of this regime, effectuated by DOT's new Procedures, is necessary to assure ensure efficient and predictable reviews, with significant upsides for the economy and for

projects of all sorts. This set of policy considerations drastically outweighs any claimed reliance interests in the preexisting procedures.

III. Basis for Issuing an Interim Final Rule

A. NHTSA Has Good Cause for Proceeding With an Interim Final Rule

For the reasons described in this section, NHTSA has determined that an interim final rule is the appropriate mechanism to rescind its 1975 procedures and to align with current law. This interim final rule satisfies the requirements of the Administrative Procedure Act (APA) under 5 U.S.C. 553(b)–(d). Although this interim final rule is effective immediately, comments are solicited from interested members of the public on all aspects of the interim final rule. NHTSA will consider these comments in deciding the next steps following this interim final rule.

The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is “impracticable, unnecessary, or contrary to the public interest,” 5 U.S.C. 553(b)(3). NHTSA finds that notice and comment is unnecessary because this action merely rescinds procedures that are already obsolete, are inconsistent with current law, and have been replaced by departmentwide procedures, DOT Order 5610.1D, which are consistent with NEPA, as amended by FRA 2023, and E.O. 14154. In addition, DOT provides a comment opportunity for the public to address any concerns with NHTSA's revised NEPA implementing procedures at Subpart D of DOT Order 5610.1D, rendering public comment on this action duplicative. Next, prior notice and comment would be impracticable because the repeal of the 1975 procedures must take immediate effect. Current agency work is impeded because the 1975 procedures are inoperative. DOT Order 5610.1D allows such work to continue, as well as replaces the role long played by the now-repealed CEQ regulations in NHTSA's administration of NEPA. However, NHTSA's 1975 procedures must also be repealed to prevent conflicting direction regarding NHTSA's NEPA procedures, which would result in further impediments to agency function. In addition, continuing its 1975 procedures in force during the comment period would conflict with Presidential, government-wide directives and departmentwide

procedures, and thus be contrary to the public interest, leading to confusion and inconsistency and resulting in delays and ambiguities during environmental reviews.

Therefore, NHTSA finds good cause to issue this interim final rule without prior notice and an opportunity for public comment. For these same reasons, NHTSA finds good cause for this rule to be effective immediately. See 5 U.S.C. 553(d)(3).

B. Notice-and-Comment Rulemaking Is Not Required for Rules of Agency Procedure

NHTSA is repealing its prior procedures and practices for implementing NEPA, a “purely procedural statute” which “simply prescribes the necessary process” for an agency’s environmental review of a project—a review that is, even in its most rigorous form, “only one input into an agency’s decision and does not itself require any particular substantive outcome.” *Seven County*, 145 S. Ct. at 1507, 1511. “NEPA imposes no substantive constraints on the agency’s ultimate decision to build, fund, or approve a proposed project,” and “is relevant only to the question of whether an agency’s final decision—*i.e.*, that decision to authorize, fund, or otherwise carry out a particular proposed project or activity—“was reasonably explained.” *Id.* at 1511. As such, notice-and-comment procedures are not required because this revision falls within the Administrative Procedure Act (APA) exception for “rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A). NHTSA’s existing regulations do not dictate what outcomes such consideration must produce, nor do they impose binding legal obligations on private citizens. Rather, they prescribe how NHTSA will conduct its NEPA reviews: detailing the structure of environmental impact statements, specifying submission requirements, and directing the timing of public comment periods. These are procedural provisions, not ones that impose substantive environmental obligations or restrictions. Thus, because procedural rules do not require notice and comment, they do not require notice and comment to be removed from the Code of Federal Regulations. See 5 U.S.C. 553(b)(A).

Moreover, even if (and to the extent that) NHTSA’s regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy under 5 U.S.C. 553(b)(A). An interpretative rule provides an interpretation of a statute, rather than make discretionary policy

choices that establish enforceable rights or obligations for regulated parties under delegated congressional authority. General statements of policy provide notice of an agency’s intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. Both of these types of agency action are expressly exempted from notice and comment by statute, 5 U.S.C. 553(b)(A), and do not require notice and comment for their removal.

IV. Request for Comment

As explained in section III of this document, the APA authorizes NHTSA to take this interim final action without prior notice or opportunity for public comment. However, NHTSA is providing an opportunity for comment on this interim final rule for 30 days after this action’s publication date, and may make further revisions should its review of any comments submitted suggest that further revisions are warranted. Any comments related to NHTSA’s revised NEPA implementing procedures should be directed to the docket for DOT’s **Federal Register** notice for the DOT Order 5610.1D.

V. Regulatory Analyses

Executive Order 12866

This rule is a “significant regulatory action” under E.O. 12866, *Regulatory Planning and Review* (58 FR 51735 (Oct. 4, 1993)). Therefore, the Office of Management and Budget (OMB) has reviewed this rule under that Executive Order.

Executive Order 14192

E.O. 14192, *Unleashing Prosperity Through Deregulation* (90 FR 9065 (Jan. 31, 2025)), requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20 (Mar. 26, 2025)) defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This interim final rule, rescinding NHTSA’s outdated NEPA regulations, will have minor cost savings that cannot be quantified. By removing obsolete regulatory text, this rule will remove any confusion or inconsistencies regarding NHTSA’s NEPA procedures. Therefore, this interim final rule is an E.O. 14192 deregulatory action.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a rule is required to be published for public comment, agencies 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). Because NHTSA was not required to provide public notice and prior opportunity for comment on this rule, the analytical requirements of the RFA do not apply. In addition, NHTSA has concluded that this rule will not have a significant economic impact on a substantial number of small entities because the rule only removes requirements that are no longer applicable or needed.

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. NHTSA has assessed the impact of this rule on Indian tribes and determined that this rule would not have tribal implications that require consultation under Executive Order 13175.

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 rule would not impose any information collection requirements subject to approval by OMB.

Executive Order 13132; Federalism Summary Impact Statement

NHTSA has examined this proposed rule pursuant to Executive Order 13132 (64 FR 43255; Aug. 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rule does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The rule does not have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

National Environmental Policy Act

NHTSA believes this interim final rule, if finalized, would not have a reasonably foreseeable significant effect on the quality of the human environment because it will not authorize any specific agency activity or commit resources to a project that may affect the environment. Therefore, NHTSA does not intend to conduct a NEPA analysis of this interim final rule.

Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, “Civil Justice Reform” (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) specifies clearly the preemptive effect; (2) specifies clearly the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) specifies clearly the retroactive effect, if any; (5) defines key terms adequately; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. This rule has no preemptive effect. It relates only to the removal of procedures related to a program that has expired. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Plain Language

E.O. 12866 and E.O. 13563 require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public’s needs?
- Are the requirements in the rule stated clearly?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this interim final rule.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Privacy Act

Although not required by the APA, DOT solicits comments from the public to better inform this rulemaking process. DOT will post these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is optional. 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.). For information on DOT’s compliance with the Privacy Act, see DOT’s website at DOT Privacy Program | US Department of Transportation.

Congressional Review Act

As required by 5 U.S.C. 801, NHTSA will submit to Congress a report regarding the issuance of this interim final rule prior to the effective date set

forth at the outset of this interim final rule. The report will state that it has been determined that this interim final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are filed correctly in the Docket, please include the docket number indicated in this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

If you are submitting comments electronically as a PDF (Adobe) file, NHTSA asks that the documents be submitted using the Optical Character Recognition (OCR) process, thus allowing NHTSA to search and copy certain portions of your submissions. Please note that pursuant to the Data Quality Act, for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB’s guidelines may be accessed at <https://www.transportation.gov/regulations/dot-information-dissemination-quality-guidelines>.

How can I be sure that my comments were received?

If you wish the Docket to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, the Docket will return the postcard by mail.

How do I submit confidential business information?

You should submit a redacted “public version” of your comment (including redacted versions of any additional documents or attachments) to the docket using any of the methods identified under **ADDRESSES**. This “public version” of your comment should contain only the portions for which no claim of confidential treatment is made and from which those portions for which confidential treatment is claimed has been redacted. See below for further instructions on how to do this.

You also need to submit a request for confidential treatment directly to the Office of Chief Counsel. Requests for confidential treatment are governed by 49 CFR part 512. Your request must set forth the information specified in part 512. This includes the materials for which confidentiality is being requested (as explained in more detail below); supporting information, pursuant to § 512.8; and a certificate, pursuant to § 512.4(b) and part 512, appendix A.

You are required to submit to the Office of Chief Counsel one unredacted “confidential version” of the information for which you are seeking confidential treatment. Pursuant to § 512.6, the words “ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION” or “CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS” (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: “[].”

You are also required to submit to the Office of Chief Counsel one redacted “public version” of the information for which you are seeking confidential treatment. Pursuant to § 512.5(a)(2), the redacted “public version” should include redactions of any information

for which you are seeking confidential treatment (*i.e.*, the only information that should be unredacted is information for which you are not seeking confidential treatment).

NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under part 512. Please do not send a hardcopy of a request for confidential treatment to NHTSA’s headquarters. The request should be sent to Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov. You may either submit your request via email or request a secure file transfer link.

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that the docket receives after that date. If the docket receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by the docket at the address given above

under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to <https://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See www.regulations.gov for more information.

List of Subjects in 49 CFR Part 520

Environmental impact statements.

PART 520—[REMOVED AND RESERVED]

■ For the reasons stated in the preamble, under the authority of 49 CFR 1.95, 501.4, and 501.5, NHTSA removes and reserves 49 CFR part 520.

Peter Simshauser,
Chief Counsel.

[FR Doc. 2025–12363 Filed 7–1–25; 2:30 pm]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register

Vol. 90, No. 126

Thursday, July 3, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 731

[Docket ID: OPM-2025-0007]

RIN 3206-A084

Suitability and Fitness

AGENCY: Office of Personnel Management.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On June 3, 2025, the Office of Personnel Management (OPM) published in the **Federal Register** proposal to amend the Federal Government personnel vetting adjudicative processes for determining suitability and taking suitability actions. The proposed rule invited the public to submit written comments beginning on the proposed rule publication date and ending on Thursday, July 3, 2025. In response to requests for an extension of the comment period, OPM is extending the comment period to Friday, July 18, 2025.

DATES: The public comment period for this action, published on June 3, 2025 (90 FR 23467), is extended. Comments must be received no later than July 18, 2025.

ADDRESSES: You may submit comments, identified by the docket number or Regulation Identifier Number (RIN) for this proposed rulemaking, by the following method:

Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for sending comments.

All submissions must include the agency name and docket number or RIN for this **Federal Register** document. Please arrange and identify your comments about the regulatory text by subpart and section number. If your comments relate to the supplementary information, please reference the heading and page number in the supplementary section. All comments must be received by the end of the comment period for them to be

considered. All comments and other submissions received generally will be posted on the internet at <https://www.regulations.gov> as they are received, without change, including any personal information provided. However, OPM retains discretion to redact personal or sensitive information, including but not limited to, personal or sensitive information pertaining to third parties.

As required by 5 U.S.C. 553(b)(4), a summary of this rule may be found in the docket for this rulemaking at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Noah Peters, Senior Advisor to the Director, by email at employeeaccountability@opm.gov or by phone at (202) 606-2930.

SUPPLEMENTARY INFORMATION: On June 3, 2025, the Office of Personnel Management (OPM) published in the **Federal Register** a notice of proposed rulemaking titled "Suitability and Fitness" (see 90 FR 23467). The comment period on this proposed rule was originally scheduled to close July 3, 2025. OPM has received requests for additional time to review and comment on this proposed rule. OPM will be extending the comment period by 15 days. The public comment period will now end on July 18, 2025. Information about submitting comments is in the **ADDRESSES** section of this notice.

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

[FR Doc. 2025-12448 Filed 7-2-25; 8:45 am]

BILLING CODE 6325-66-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2025-1114; Project Identifier AD-2025-00314-T]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD)

2023-08-04, which applies to certain The Boeing Company Model 787-8, 787-9, and 787-10 airplanes. AD 2023-08-04 requires a detailed visual inspection of all door 1 and door 3 lavatory and galley potable water systems for any missing or incorrectly installed clamshell couplings, and applicable on-condition actions. Since the FAA issued AD 2023-08-04, Boeing has discovered that some couplings did not have the required safety strap and has developed a design solution that replaces the couplings with couplings that have safety straps. This proposed AD would retain the requirements of AD 2023-08-04 and require, for certain airplanes, a detailed inspection of all clamshell couplings for the presence and correct installation of safety straps at door 1 and door 3 lavatories and galleys with a potable water system, and applicable on-condition actions, which would terminate the existing requirements. The AD would also prohibit the installation of affected parts at inspection locations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 18, 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](https://www.regulations.gov) under Docket No. FAA-2025-1114; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Boeing material identified in this proposed AD, contact Boeing

Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; website myboeingfleet.com.

• You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2025-1114.

FOR FURTHER INFORMATION CONTACT:

Courtney Tuck, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3986; email: courtney.k.tuck@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA-2025-1114; Project Identifier AD-2025-00314-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 Courtney Tuck, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3986; email: courtney.k.tuck@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2023-08-04, Amendment 39-22419 (88 FR 33823, May 25, 2023) (AD 2023-08-04), for certain The Boeing Company Model 787-8, 787-9, and 787-10 airplanes. AD 2023-08-04 was prompted by reports of a loss of water pressure during flight and water leaks that affected multiple pieces of electronic equipment. AD 2023-08-04 requires a detailed visual inspection of all door 1 and door 3 lavatory and galley potable water systems for any missing or incorrectly installed clamshell couplings, and applicable on-condition actions. The agency issued AD 2023-08-04 to address incorrectly installed or missing lavatory and galley clamshell couplings that could lead to water leaks and water migration to critical flight equipment, which may affect the continued safe flight and landing of the airplane. The FAA previously issued an NPRM on July 15, 2024 (89 FR 57374) for certain The Boeing Company Model 787-8 and 787-9 airplanes to address the unsafe condition. The FAA subsequently withdrew that NPRM on February 4, 2025 (90 FR 8914) due to a determination that the identified service information may not have adequately addressed the unsafe condition on one of the galleys, and the Model 787-10 airplanes should have been included in the applicability. This NPRM includes the Model 787-10 airplane and will address the unsafe condition.

Actions Since AD 2023-08-04 Was Issued

The preamble to AD 2023-08-04 explains that the FAA considers the requirements “interim action” and was considering further rulemaking. Since the FAA issued AD 2023-08-04, Boeing has determined that some clamshell couplings do not have the required safety straps and has since developed procedures to ensure that affected clamshell couplings have correctly installed safety straps. The FAA has now determined that further rulemaking is necessary, and this proposed AD follows from that determination.

The FAA is proposing this AD to prevent a loss of water pressure during flight and water leaks that can affect multiple pieces of electronic equipment. The unsafe condition, if not addressed, could lead to water migration to critical flight equipment, which may affect the continued safe flight and landing of the airplane.

FAA’s Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin B787-81205-SB250299-00 RB, Issue 002, dated February 28, 2025. This material specifies procedures for a detailed inspection for the presence and correct installation of safety straps at the clamshell couplings at door 1 and door 3 lavatories and galleys with a potable water system. The material also specifies applicable on-condition actions including correcting the installation of the safety strap, replacing any clamshell coupling that does not have a strap with a new clamshell coupling that has a safety strap, and performing a water leak test.

This proposed AD would also require Boeing Alert Requirements Bulletin B787-81205-SB380021-00 RB, Issue 001, dated August 12, 2022, which the Director of the Federal Register approved for incorporation by reference as of June 29, 2023 (88 FR 33823, May 25, 2023).

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

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2023-08-04. This proposed AD would require accomplishing the actions specified in the material already described, except for any differences identified as exceptions in the regulatory text of this proposed AD. This proposed AD would also prohibit the installation of affected parts at inspection locations. For information on the procedures and compliance times, see this material at regulations.gov under Docket No. FAA-2025-1114.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 165 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Clamshell coupling inspection, per lavatory/galley (retained actions from AD 2023-08-04).	1 work-hour × \$85 per hour = \$85 ...	\$0	\$85	\$14,025.
Safety strap inspection, per lavatory/galley (new proposed action) (For 787–8 and –9 airplanes).	27 work-hours × \$85 per hour = \$2,295, per lavatory/galley.	0	\$2,295, per lavatory/galley.	\$238,680 (104 airplanes).

The FAA estimates the following costs to do any on-condition actions that

would be required based on the results of the proposed inspections. The agency

has no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS			
Action	Labor cost	Parts cost	Cost per product
Correct installation for clamshell coupling with safety strap that was installed incorrectly.	1 work-hour × \$85 per hour = \$85 per lavatory/galley.	\$0	\$85 per lavatory/galley.
Install clamshell coupling with strap and perform leak test	4 work-hours × \$85 per hour = \$340 per lavatory/galley.	Up to \$267 per lavatory/galley.	\$607 per lavatory/galley.

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) 2023–08–04, Amendment 39–22419 (88 FR 33823, May 25, 2023), and

■ b. Adding the following new AD:

The Boeing Company: Docket No. FAA–2025–1114; Project Identifier AD–2025–00314–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 18, 2025.

(b) Affected ADs

This AD replaces AD 2023–08–04, Amendment 39–22419 (88 FR 33823, May 25, 2023) (AD 2023–08–04).

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, as specified in Boeing Alert Requirements Bulletin B787–81205–SB380021–00 RB, Issue 001, dated August 12, 2022.

(d) Subject

Air Transport Association (ATA) of America Code 38, Water/waste.

(e) Unsafe Condition

This AD was prompted by reports of a loss of water pressure during flight and water leaks that affected multiple pieces of electronic equipment, and by the determination that some clamshell couplings for certain lavatory and galley doors did not have a required safety strap. The FAA is issuing this AD to prevent the unsafe condition, which, if not addressed, could lead to water leaks and water migration to critical flight equipment, which may affect the continued safe flight and landing of the airplane.

(f) Compliance

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

(g) Retained Clamshell Coupling Inspection, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2023–08–04, with no changes. Except as specified by paragraph (h) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin B787–81205–SB380021–00 RB, Issue 001, dated August

12, 2022, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB380021–00 RB, Issue 001, dated August 12, 2022.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by paragraph (g) of this AD can be found in Boeing Alert Service Bulletin B787–81205–SB380021–00, Issue 001, dated August 12, 2022, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB380021–00 RB, Issue 001, dated August 12, 2022.

(h) Retained Exception to Service Information Specifications, With No Changes

This paragraph restates the exception of paragraph (h) of AD 2023–08–04, with no changes. Where the Compliance Time columns of the table in the “Compliance” paragraph of Boeing Alert Requirements Bulletin B787–81205–SB380021–00 RB, Issue 001, dated August 12, 2022, refer to the Issue 001 date of Requirements Bulletin B787–81205–SB380021–00 RB, this AD requires using June 29, 2023 (the effective date of AD 2023–08–04).

(i) Retained Credit for Previous Actions, With No Changes

This paragraph restates the provisions of paragraph (i) of AD 2023–08–04, with no changes. This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before June 29, 2023 (the effective date of AD 2023–08–04), using Multi Operator Message MOM–21–0554–01B, dated December 14, 2021 (for lavatory inspections); and MOM–22–0229–01B, dated April 29, 2022 (for galley inspections).

(j) New Required Actions

For airplanes identified in Boeing Alert Requirements Bulletin B787–81205–SB250299–00 RB, Issue 002, dated February 28, 2025: Except as specified by paragraph (k) of this AD, at the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin B787–81205–SB250299–00 RB, Issue 002, dated February 28, 2025, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB250299–00 RB, Issue 002, dated February 28, 2025.

Note 2 to paragraph (j): Guidance for accomplishing the actions required by paragraph (j) of this AD can be found in Boeing Alert Service Bulletin B787–81205–SB250299–00, Issue 002, dated February 28, 2025, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB250299–00 RB, Issue 002, dated February 28, 2025.

(k) New Exception to Service Information Specifications

Where the Compliance Time column of the table in the “Compliance” paragraph of Boeing Alert Requirements Bulletin B787–81205–SB250299–00 RB, Issue 002, dated February 28, 2025, uses the phrase “the Issue

001 date of Requirements Bulletin B787–81205–SB250299–00 RB,” this AD requires using the effective date of this AD.

(l) Terminating Action for Clamshell Coupling Inspection

For the airplanes identified in Boeing Alert Requirements Bulletin B787–81205–SB250299–00 RB, Issue 002, dated February 28, 2025: Accomplishment of the actions required by paragraph (j) of this AD terminates the requirements of paragraph (g) of this AD.

(m) Parts Installation Prohibition

As of the effective date of this AD, no person may install a clamshell coupling, part number (P/N) 14C02–08C or P/N AS1655A08, at inspection locations where P/N 14C02–08C or P/N AS1655A08 was replaced with P/N 14C34–08C or P/N 14C33–08 on any airplane.

(n) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (o)(1) of this AD. Information may be emailed to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(o) Related Information

(1) For more information about this AD, contact Courtney Tuck, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3986; email: courtney.k.tuck@faa.gov.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (p)(5) of this AD.

(p) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) Boeing Alert Requirements Bulletin B787–81205–SB250299–00 RB, Issue 002, dated February 28, 2025.

(ii) [Reserved]

(4) The following material was approved for IBR on June 29, 2023 (88 FR 33823, May 25, 2023).

(i) Boeing Alert Requirements Bulletin B787–81205–SB380021–00 RB, Issue 001, dated August 12, 2022.

(ii) [Reserved]

(5) For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website myboeingfleet.com.

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

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

Issued on June 18, 2025.

Peter A. White,

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

[FR Doc. 2025–12479 Filed 7–2–25; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA–HQ–OPP–2025–0028; FRL–12474–05–OCSPP]

Receipt of Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities (February–May 2025)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency’s receipt of and solicits public comment on initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities. The Agency is providing this notice in accordance with the Federal Food, Drug, and Cosmetic Act (FFDCA). EPA uses the month and year in the title to identify when the Agency compiled the petitions identified in this notice of filing. Unit II. of this document identifies certain petitions received in 2023, 2024 and 2025 that are currently being evaluated

by EPA, along with information about each petition, including who submitted the petition and the requested action.

DATES: Comments must be received on or before August 4, 2025.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition (PP) of interest identified in Unit II. of this document, online at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Each application summary in Unit II. specifies a contact division. The appropriate division contacts are identified as follows:

- BPPD (Biopesticides and Pollution Prevention Division) (Mail Code 7511M); Shannon Borges; main telephone number: (202) 566-1400; email address: BPPDFRNotices@epa.gov; or
- RD (Registration Division) (Mail Code 7505T); Charles Smith; main telephone number: (202) 566-1030; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action provides information that is directed to the public in general.

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

EPA regulations for residues of pesticide chemicals in or on various food commodities are established under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), requires EPA to publish a notice of the filing of these petitions in the **Federal Register** and provide an opportunity for public comment on the requests.

C. What action is the Agency taking?

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the receipt of pesticide petitions filed under FFDCA section 408 that request the establishment or modification of regulations for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before

responding to the petitioner. Pursuant to 40 CFR 180.7(f), a summary of the petition identified in this document, prepared by the petitioner, is included in a docket. EPA has determined that the pesticide petitions described in this document contain data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2), and 40 CFR 180.7(b); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Based upon review of the data supporting these petitions and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA may establish a final tolerance or tolerance exemption that "may vary from that sought by the petitioner." For example, EPA may determine that it is appropriate to vary the commodity name for consistency with EPA's Food and Feed Commodity Vocabulary, which is located here <https://www.epa.gov/pesticide-tolerances/food-and-feed-commodity-vocabulary>, or vary the tolerance level based on available data, harmonization interests, or the trailing zeros policy. In addition, when evaluating a petition's requests for a tolerance or exemption, EPA will consider how use of the pesticide on a crop for which a tolerance is requested may result in residues in or on commodities related to that requested commodity (e.g., whether use on sugar beets for which a tolerance was requested on sugar beet root also requires a tolerance on sugar beet tops or whether use on a cereal grain for which a grain tolerance was requested also requires a tolerance on related animal feed commodities derived from that cereal grain). Public commenters should consider the possibility of such revisions in preparing comments on these petitions.

D. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment

without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/epa-dockets>.

II. Petitions Received

This unit provides the following information about the petitions:

- The Pesticide Petition (PP) Identification (IN) number;
- EPA docket ID number for the petition;
- Information about the petition (i.e., name of the petitioner, name of the pesticide chemical residue and the commodities for which a tolerance or exemption is sought);
- The analytical method available to detect and measure the pesticide chemical residue or the petitioner's statement about why such a method is not needed; and
- The division to contact for that petition.

Additional information on the petitions may be obtained through the petition summaries that were prepared by the petitioners pursuant to 21 U.S.C. 346a(d)(2)(A)(i)(I) and 40 CFR 180.7(b)(1), which are included in the docket for the petition as identified in this unit.

- **PP 4E9107.** (EPA-HQ-OPP-2024-0202). Interregional Research Project Number 4 (IR-4), IR-4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606, requests to amend the tolerances in 40 CFR 180.544 by removing the established tolerances for residues of the insecticide methoxyfenozide (3-methoxy-2-methylbenzoic acid 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide) including its metabolites and degradates in or on the raw agricultural commodities: Bean, adzuki, dry seed at 0.5 ppm; bean, American potato, dry seed at 0.5 ppm; bean, asparagus, dry seed at 0.5 ppm; bean, asparagus, edible podded at 2 ppm; bean, black, dry seed at 0.5 ppm; bean, broad, dry seed at 0.5 ppm; bean, broad, succulent shelled at 0.3 ppm; bean, catjang, dry seed at 0.5 ppm; bean, catjang, edible podded at 2 ppm; bean, catjang, succulent shelled at 0.3 ppm; bean, cranberry, dry seed at 0.5 ppm; bean, dry, dry seed at 0.5 ppm; bean, field, dry seed at 0.5 ppm; bean, French, dry seed at 0.5 ppm; bean, French, edible podded at 2 ppm; bean, garden, dry seed at 0.5 ppm; bean, garden, edible podded at 2 ppm; bean, goa, dry seed at 0.5 ppm; bean, goa,

edible podded at 2 ppm; bean, goa, succulent shelled at 0.3 ppm; bean, great northern, dry seed at 0.5 ppm; bean, green, dry seed at 0.5 ppm; bean, green, edible podded at 2 ppm; bean, guar, dry seed at 0.5 ppm; bean, guar, edible podded at 2 ppm; bean, kidney, dry seed 0.5 ppm; bean, kidney, edible podded at 2 ppm; bean, lablab, dry seed at 0.5 ppm; bean, lablab, edible podded at 2 ppm; bean, lablab succulent shelled 0.3 ppm; bean, lima, dry seed at 0.5 ppm; bean, lima, succulent shelled at 0.3 ppm; bean, morama, dry seed at 0.5 ppm; bean, moth, dry seed at 0.5 ppm; bean, moth edible podded at 2 ppm; bean, moth, succulent shelled at 0.3 ppm; bean, mung, edible podded at 2 ppm; bean, navy, dry seed at 0.5 ppm; bean, navy, edible podded at 2 ppm; bean, pink, dry seed at 0.5 ppm; bean, pinto, dry seed at 0.5 ppm; bean, red, dry seed at 0.5 ppm; bean, rice, dry seed at 0.5 ppm; bean, rice, edible podded at 2 ppm; bean, scarlet runner, dry seed at 0.5 ppm; bean, scarlet runner, edible podded at 2 ppm; bean, scarlet runner, succulent shelled at 0.3 ppm; bean, snap, edible podded at 2 ppm; bean, sword, dry seed at 0.5 ppm; bean, sword, edible podded at 2 ppm; bean, tepary, dry seed at 0.5 ppm; bean, urd, dry seed at 0.5 ppm; bean, urd, edible podded at 2 ppm; bean, wax, edible podded at 2 ppm; bean, wax, succulent shelled at 0.3 ppm; bean, yard long, dry seed at 0.5 ppm; bean, yard long, edible podded at 2 ppm; bean, yellow, dry seed at 0.5 ppm; chickpea, dry seed at 0.5 ppm; chickpea, edible podded at 2 ppm; chickpea, succulent shelled at 0.3 ppm; corn, field, grain at 0.05 ppm; corn, pop, grain at 0.05 ppm; corn, sweet, kernel plus cob with husks removed at 0.05 ppm; cowpea, dry seed at 0.5 ppm; cowpea, edible podded at 2 ppm; cowpea, succulent shelled at 0.3 ppm; feijoa at 0.4 ppm; gram, horse, dry seed at 0.5 ppm; grass pea, dry seed at 0.5 ppm; grass pea, edible podded at 2 ppm; guava at 0.4 ppm; jaboticaba at 0.4 ppm; jack bean, dry seed at 0.5 ppm; jack bean, edible podded at 2 ppm; jack bean, succulent shelled at 0.3 ppm; lentil, dry seed at 0.5 ppm; lentil, edible podded at 2 ppm; lentil, succulent shelled at 0.3 ppm; long bean, Chinese, dry seed at 0.5 ppm; long bean, Chinese, edible podded at 2 ppm; lupin, Andean, succulent shelled at 0.3 ppm; lupin, blue, dry seed at 0.5 ppm; lupin, blue, succulent shelled at 0.3 ppm; lupin, grain, dry seed at 0.5 ppm; lupin, grain, succulent shelled at 0.3 ppm; lupin, sweet, dry seed at 0.5 ppm; lupin, sweet, succulent shelled at 0.3 ppm; lupin, sweet white, dry seed at 0.5 ppm; lupin, sweet white, succulent shelled at

0.3 ppm; lupin, white, dry seed at 0.5 ppm; lupin, white, succulent shelled at 0.3 ppm; lupin, yellow, dry seed at 0.5 ppm; lupin, yellow, succulent shelled at 0.3 ppm; pea, blackeyed, succulent shelled at 0.3 ppm; pea, crowder, dry seed at 0.5 ppm; pea, crowder, succulent shelled at 0.3 ppm; pea, dry, dry seed at 0.5 ppm; pea, dwarf, edible podded at 2 ppm; pea, English, succulent shelled 0.3 ppm; pea, field, dry seed at 0.5 ppm; pea, garden, dry seed at 0.5 ppm; pea, garden, succulent shelled at 0.3 ppm; pea, green, dry seed at 0.5 ppm; pea, green, edible podded at 2 ppm; pea, green, succulent shelled at 0.3 ppm; pea, pigeon, dry seed at 0.5 ppm; pea, pigeon, edible podded at 2 ppm; pea, pigeon, succulent shelled at 0.3 ppm; pea, snap, edible podded at 2 ppm; pea, snow edible podded at 2 ppm; pea, southern, succulent shelled at 0.3 ppm; pea, sugar snap, edible podded at 2 ppm; pea, winged, dry seed at 0.5 ppm; pea, winged, edible podded at 2 ppm; rice, grain at 30 ppm; sorghum, grain at 6 ppm; sorghum, sweet, grain at 6 ppm; soybean, vegetable, dry seed at 0.5 ppm; soybean, vegetable, edible podded at 2 ppm; soybean, vegetable, succulent shelled at 0.3 ppm; starfruit at 0.4 ppm; velvet bean, dry seed at 0.5 ppm; velvet bean, edible podded at 2 ppm; velvet bean, succulent shelled at 0.3 ppm; and yam bean, African, dry seed at 0.5 ppm. Adequate single methods are available for tolerance enforcement in primary crops and animal commodities. *Contact:* RD.

• *PP IN-11998.* (EPA-HQ-OPP-2025-0079). Spring Regulatory Sciences, 6620 Cypresswood Dr., Suite 250, Spring, TX 77379 on behalf of Ashland Specialty Ingredients G.P. (8145 Blazer Drive, Wilmington, DE 19808) requests to establish an exemption from the requirement of a tolerance for residues of Castor oil, polymer with 2-ethylhexanol, maleic anhydride and soybean oil, sodium salt (CAS Reg. No. 3057850-65-1) with a minimum number average molecular weight (in amu) of 4571 when used as a pesticide inert ingredient in pesticide formulations under 40 CFR 180.960. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

• *PP 4F9109.* (EPA-HQ-OPP-2024-0284). WeedOUT, Ltd., c/o Ephi Gur Regulatory Consulting Inc., 2736 S. Evenfall Dr., Yuma, AZ 85635, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the herbicide, WDT-1, an irradiated pollen derived from non-glyphosate resistant varieties of Palmer Amaranth (*Amaranthus*

palmeri) in or on all food commodities. The petitioner believes no analytical method is needed because therefore, the requirement to provide an analytical method for the detection of WDT-1 in agricultural commodities or processed foods is not applicable. *Contact:* BPPD.

• *PP 4F9111.* (EPA-HQ-OPP-2024-0486). FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the microbial insecticide and nematocide *Bacillus thuringiensis* strain RTI545 in or on all food and feed commodities. The petitioner believes no analytical method is needed because when used as proposed, *Bacillus thuringiensis* strain RTI545 would not result in residues that are of toxicological concern. *Contact:* BPPD.

• *PP 4E9107.* (EPA-HQ-OPP-2024-0202). Interregional Research Project Number 4 (IR-4), IR-4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606, requests to establish tolerances in 40 CFR 180.544 for residues of the insecticide methoxyfenozide (3-methoxy-2-methylbenzoic acid 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide) including its metabolites and degradates in or on the raw agricultural commodities: Edible podded bean subgroup 6-22A at 2 parts per million (ppm); edible podded pea subgroup 6-22B at 2 ppm; field corn subgroup 15-22C at 0.05 ppm; grain sorghum and millet subgroup 15-22E at 6 ppm; pulses, dried shelled bean, except soybean, subgroup 6-22E, except pea, blackeyed, seed and pea, southern, seed at 0.5 ppm; pulses, dried shelled pea subgroup 6-22F at 0.5 ppm; succulent shelled bean subgroup 6-22C at 0.3 ppm; succulent shelled pea subgroup 6-22D at 0.3 ppm; sweet corn subgroup 15-22D 0.05 ppm; and tropical and subtropical, medium to large fruit, edible peel, subgroup 23B at 6ppm; and to establish a regional tolerance for residues of the insecticide methoxyfenozide (3-methoxy-2-methylbenzoic acid 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide) including its metabolites and degradates in or on Rice subgroup 15-22F at 30 ppm. Adequate single methods are available for tolerance enforcement in primary crops and animal commodities. *Contact:* RD.

• *PP 4E9122.* (EPA-HQ-OPP-2024-0330). UPL Delaware, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406, requests to establish an import tolerance in 40 CFR part 180 for residues of the herbicide

amicarbazone in or on sugarcane, cane at 0.2 parts per million (ppm) and sugarcane, molasses at 0.5 ppm. The LC-MS/MS method is used to measure and evaluate the chemical amicarbazone. *Contact:* RD.

- *PP 4E9103.* (EPA-HQ-OPP-2024-0460). American Spice Trade Association, 2025 M Street NW, Suite 800, Washington, DC 20036, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide azoxystrobin in or on: pepper, black at 1 part per million (ppm). The gas chromatography multi-residue method: GC-MS-MS/LC-MS-MS was used to measure and evaluate the chemical azoxystrobin. *Contact:* RD.

- *PP 4F9155.* (EPA-HQ-OPP-2024-0630). The American Spice Trade Association, 1101 17th Street NW, Suite 700, Washington DC 20036, requests to establish tolerances in 40 CFR part 180 for residues of the insecticide, imidacloprid, in or on pepper, black at 0.05 parts per million (ppm). The LC-MS/MS method is used to measure and evaluate the chemical imidacloprid. *Contact:* RD.

- *PP 4F9156.* (EPA-HQ-OPP-2024-0631). The American Spice Trade Association, 1101 17th Street NW, Suite 700, Washington DC 20036, requests to establish tolerances in 40 CFR part 180 for residues of the insecticide, thiamethoxam, in or on pepper, black at 0.1 parts per million (ppm). The LC-MS/MS method is used to measure and evaluate the chemical thiamethoxam. *Contact:* RD.

- *PP 4F9157.* (EPA-HQ-OPP-2025-0071). American Spice Trade Association, Inc. 1101 17th Street NW, Suite 700, Washington, DC 20036, requests to establish an import tolerance in 40 CFR part 180 for residues of the pesticide, permethrin, in or on black pepper at 0.1 parts per million (ppm). The LC-MS/MS analytical methods are used to measure and evaluate the chemical permethrin. *Contact:* RD.

- *PP 4F9164.* (EPA-HQ-OPP-2025-0119). ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide Tolpyralate, 1-[[1-Ethyl-4-[3-(2-methoxyethoxy)-2-methyl-4-(methylsulfonyl)benzoyl]-1H-pyrazol-5-yl]oxylethyl methyl carbonate (CAS), including its metabolite MT-2153 in or on wheat subgroup 15-22A, grain at 0.01 parts per million (ppm); wheat subgroup 15-22A, forage at 0.02 ppm; wheat subgroup 15-22A, hay at 0.05 ppm; wheat subgroup 15-22A, straw at 0.03 ppm; barley subgroup 15-22B, grain at 0.01 ppm; barley subgroup 15-22B, hay at 0.20 ppm; and barley

subgroup 15-22B, straw at 0.08 ppm. Liquid Chromatography-MS/MS is used to measure and evaluate the chemical tolpyralate. *Contact:* RD.

- *PP 5E9172.* (EPA-HQ-OPP-2025-0127). The Interregional Research Project #4, IR-4, North Carolina State University, 1730 Varsity Drive Venture IV, Suite 210, Raleigh, North Carolina 27606, requests to establish tolerances in 40 CFR part 180 for residues of the insecticide, acetamiprid, in or on Dragon fruit at 3 parts per million (ppm); sunflower subgroup 20B at 1.5 ppm; vegetable, legume, bean, edible podded, subgroup 6-22A at 0.6 ppm; vegetable, legume, bean, succulent shelled, subgroup 6-22C at 0.4 ppm; vegetable, legume, pea, edible podded, subgroup 6-22B at 0.6 ppm; vegetable, legume, pea, succulent shelled, subgroup 6-22D at 0.4 ppm parts per million (ppm). The GC/ECD, HPLC/UV, GC-MS/MS and LC-MS/MS methods are used to measure and evaluate the chemical acetamiprid. *Contact:* RD.

- *PP IN-11864.* EPA-HQ-OPP-2025-0147. Eastman Chemical Company, 200 S. Wilcox Drive, Kingsport, TN, 37660, requests to establish an exemption from the requirement of a tolerance for residues of propanol, oxybis-, dibenzoate (CASRN 27138-31-4) when used as a pesticide inert ingredient (solvent) in pesticide formulations under 40 CFR 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

- *PP IN-11878.* EPA-HQ-OPP-2025-0155. Ashland Specialty Ingredients G.P., 8145 Blazer Drive, Wilmington, DE, 19808, requests to establish an exemption from the requirement of a tolerance for residues of polyethylhexyl glycidyl ether polyethylene oxide copolymer (CAS Reg. No. 82780-16-3) when used as a pesticide inert ingredient (wetting agent or surfactant) in pesticide formulations under 40 CFR 180.910 with a limitation of 10% in pesticide formulations. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

- *PP 4E9114.* EPA-HQ-OPP-2025-0176. Silvec Biologics Inc. 200 Girard Street, Suite 200, Gaithersburg, MD 20877, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the plant pesticides Spinach defensin genes 2 (SoD2, SoD2-1, SoD2*), expressed in *Citrus tristeza* virus (CTV) strain T36 (CTV-SoD2, CTV-SoD2-1 and CTV-SoD2*) in or on Citrus Fruit Group 10-10. The petitioner

believes no analytical method is needed because an exemption from the requirement of a tolerance is being sought. *Contact:* BPPD.

- *PP 4E9159.* EPA-HQ-OPP-2025-0212. Soil Culture Solutions, LLC (d/b/a Soilcea), 3802 Spectrum Blvd., Suite 157, Tampa, FL 33612, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 174 for residues of the plant-incorporated protectant (PIP) Cas9 protein in or on Citrus Group 10-10. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance is being sought. *Contact:* BPPD.

- *PP 3F9070.* EPA-HQ-OPP-2024-0071. Nichino America, Inc., 4550 Linden Hill Road, Suite 501, Wilmington, DE 19808, requests to establish a tolerance in 40 CFR 180 for residues of the herbicide pyraflufen-ethyl including its metabolites and degradates in or on oat, grain at 0.01 parts per million (ppm); oat, forage at 0.01 ppm; oat, hay at 0.01 ppm; and oat, straw at 0.01 ppm. The high-performance liquid chromatography (HPLC) employing tandem mass spectrometry (MS/MS) is used to measure and evaluate the chemical pyraflufen-ethyl. *Contact:* RD.

- *PP 4F9108.* EPA-HQ-OPP-2025-0179. Valent BioSciences LLC, requests to establish a tolerance in 40 CFR part 180 for residues of the plant regulator 6-benzyladenine in or on soybeans at 0.01 parts per million (ppm). Liquid chromatography with mass-selective (MS/MS) detection is used to measure and evaluate the chemical 6-benzyladenine. *Contact:* BPPD.

- *PP 4F9150.* EPA-HQ-OPP-2025-0128. Corteva Agriscience, 9330 Zionsville Road, Indianapolis, IN 46268, requests to establish tolerances in 40 CFR part 180 for residues of the insecticide fluzaindolizine in or on Berry, low growing, subgroup 13-07G at 0.15 ppm; Fruit, small vine climbing (except fuzzy kiwifruit), subgroup 13-07F at 0.04 ppm; Nut, tree, group 14-12 at 0.04 ppm. The HPLC-MS/MS method is used to measure and evaluate the chemical fluzaindolizine. *Contact:* RD.

- *PP: 4F9151.* Docket ID number: EPA-HQ-OPP-2025-0041. Applicant: ISK Biosciences Corporation, 7470 Auburn Rd., Suite A, Concord, OH 44027 Active ingredient: Isfetamid. Product type: Fungicide. Requests to remove tolerances in 40 CFR part 180 for residues of the fungicide isfetamid including its metabolites and degradates in or on the raw agricultural commodities: Almonds at 0.01 ppm, Almond hulls at 0.01 ppm. *Contact:* RD.

- *PP*: 4F9151. Docket ID number: EPA-HQ-OPP-2025-0041. Applicant: ISK Biosciences Corporation, 7470 Auburn Rd., Suite A, Concord, OH 44027. Active ingredient: Isofetamid. Product type: Fungicide. Requests to establish tolerances in 40 CFR part 180 for residues of the fungicide isofetamid including its metabolites and degradates in or on the raw agricultural commodities: Tree nut, crop group 14–12 at 0.15 ppm, Almond hulls at 15 ppm. The analytical method using solvent extraction, and SPE clean-up, with subsequent quantification of residues by liquid chromatography with tandem mass spectrometry (LC-MS/MS), is used to measure and evaluate the chemical isofetamid and its metabolites. *Contact*: RD.

- *PP5E9169*. EPA-HQ-OPP-2025-0080. The Interregional Research Project No. 4 (IR-4), IR-4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606, requests to establish tolerances in 40 CFR part 180.222 for residues of the herbicide prometryn 2,4-bis(isopropylamino)-6-methylthio-s-triazine, including its metabolites and degradates, in or on the following raw agricultural commodity leek at 0.05 parts per million. The control and treated samples were analyzed using a working method very similar to the reference method, “Analytical Method

for the Determination of Prometryn and Metabolites GS-11354 and GS-26831 in Celery, Cottonseed, and Cottonseed Fractions.” methods using microcoulometric, thermionic, or FPD/S detectors. (Method AG-559), using a flame photometric detector in the sulfur mode (FPD/S) has undergone a successful independent laboratory validation. *Contact*: RD.

- *PP* 5F9178. EPA-HQ-OPP-2025-0217. McLaughlin Gormley King Company D/B/A MGK, requests to establish a tolerances in 40 CFR part 180 for residues of the insecticide veratrine (sabadilla alkaloids) in or on Leafy Greens (Crop Subgroup 4–16A) at 6 ppm; Fruiting Vegetables (Crop Group 8–10) at 0.08 ppm; Avocado at 0.07 ppm. The HPLC-MS/MS method is used to measure and evaluate the chemical veratrine (sabadilla alkaloids). *Contact*: RD.

- *PP IN-11962*. (EPA-HQ-OPP-2025-0286). Elicit Plant S.A.S., 1 Passage de la Croix, Lieu-dit le chataignier, 16220 Moulins-sur-tardoire, France requests to establish an exemption from the requirement of a tolerance for residues of D-Glucopyranoside, β -D-fructofuranosyl, mixed palmitates and stearates (CAS Reg. No 84066–95–5) when used as inert ingredient in pesticide formulations applied pre-harvest under 40 CFR 180.920. The petitioner believes no

analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact*: RD.

- *IN-12106*. (EPA-HQ-OPP-2025-0287). ChemReg Compliance Solutions, LLC (CRCS), (131 N. Donelson Street, Alexandria, VA 22304), on behalf of Covestro LLC, (1 Covestro Circle, Pittsburgh, PA 15205), requests to establish an exemption from the requirement of a tolerance for residues of Hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol; (CAS Reg. No. 67815–81–0); minimum average number molecular weight (in amu) of 64,943 when used as a pesticide inert ingredient in pesticide formulations under 40 CFR 180.960. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact*: RD.

(Authority: 21 U.S.C. 346a.)

Dated: June 26, 2025.

Kimberly Smith,

Acting Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2025–12404 Filed 7–2–25; 8:45 am]

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Notices

Federal Register

Vol. 90, No. 126

Thursday, July 3, 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

Agricultural Marketing Service

[Doc. No. AMS–FGIS–24–0062]

Geographic Areas for Official Grain Inspection Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing updates to the boundaries of the geographic areas in which official service providers (OSP) perform official inspection and weighing services under a United States Grain Standards Act (USGSA) designation or delegation, and for purposes of cooperative service agreements under the Agricultural Marketing Act of 1946 (AMA). The updates are necessary due to changes in natural and man-made landmarks, railroad lines, roads, and signs that were used in historical boundary descriptions.

DATES: July 3, 2025.

FOR FURTHER INFORMATION CONTACT:

Kendra Kline, Deputy Director, Federal Grain Inspection Service, AMS, USDA; Telephone: (202) 620–2410; Email: Kendra.C.Kline@usda.gov.

SUPPLEMENTARY INFORMATION: AMS's Federal Grain Inspection Service (FGIS) administers provisions of the USGSA and AMA that specify the conditions under which domestic grains, oilseeds, and legumes are sampled, inspected, weighed, and tested for domestic and export shipments. Under the provisions of these statutes, FGIS typically authorizes one OSP, through competitive application procedures, to perform official inspection services for customers within each geographic area of the United States as defined by the Secretary of Agriculture. This ensures effective and efficient delivery of official services to customers within each area

and enhances the orderly marketing of grains, oilseeds, and legumes.

Where possible, the boundaries of the geographic areas follow state or county lines. Occasionally, geographic areas include only portions of counties in an effort to evenly distribute grain merchandising locations among geographic areas. This is more common in the grain belt where the need for inspection services is most concentrated. Over time, some boundaries were adjusted to recognize historical agreements or accommodate the needs of OSPs or their customers.

In some cases, geographic area boundaries have been defined by rivers, landmarks, or locally recognized roads within counties, rather than by state or county borders. Over the years, some of the landmarks, railroad lines, and roads that were used to define the boundaries of geographic areas have changed or disappeared, leaving some question as to the exact boundaries currently in use.

This notice announces the implementation of the updated boundaries of the geographic areas that were published in the **Federal Register** (90 FR 2664) on January 13, 2025. No comments were received during the designated comment period. Since the publication of the proposed geographic areas FGIS published a notice in the **Federal Register** (90 FR 17364) expanding the Memphis, Tennessee area in Texas. The area below has been updated accordingly. FGIS will update designation and delegation documents to reflect the updated geographic areas for OSPs. Any future changes will be announced in the **Federal Register**.

Updated Geographic Area Descriptions and Official Service Providers

The geographic areas described below are listed alphabetically by state. Some geographic areas include one or more entire states, or entire counties within a state. Several areas include territory in more than one state. Some areas include partial counties, divided by named highways, roads, or waterways. Where possible, geographic areas are defined by state or county lines. In cases in which an area includes only part of a county or counties, the boundaries are identified by reference to highways, roads, waterways, and other landmarks.

For uniformity in the descriptions below, highway and road designations follow typical naming conventions. For example, Interstate 80 is written "I–80,"

U.S. Route 54 is written "US–54," Iowa State Route 21 is written "IA–21," and County Road 14 is written "CR–14."

The current OSP for each area is identified below. In some cases, grain elevators or customers within defined geographic areas are historically served by other than the designated OSP for that area. Such exclusions are listed below the OSP identified for each area. Where ports for export shipments exist within a geographic area, the OSP for export inspection services in that area is listed.

Please note that FGIS also administers the AMA and its implementing regulations and instructions, including the provisions regarding cooperative agreements. Accordingly, this document also lists the geographic areas serviced under AMA cooperative agreements by three OSPs, namely, the Idaho State Department of Agriculture, Oregon Department of Agriculture, and Wyoming Department of Agriculture. The geographic areas are now identified by number. Numbers are assigned to the geographic areas in alphabetical order, first by state, then by county. Contact and other information, including the services offered by each OSP, is available on the AMS website at <https://fgisonline.ams.usda.gov/MyFGIS/OSPDiretory/Index>.

Area 1 (Formerly Known as State of Alabama)

Description: In Alabama: The entire state of Alabama.

Current Service Provider: Alabama Department of Agriculture and Industries.

Exports: All exports including export waterborne carriers/vessels are serviced by the Alabama Department of Agriculture and Industries.

Area 2 (Formerly Known as Casa Grande, Arizona)

Description: In Arizona: Maricopa, Pinal, Santa Cruz, and Yuma Counties.

In California: Imperial, Riverside, and San Diego Counties.

Current Service Provider: Farwell Commodity and Grain Services, Inc.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 3 (Formerly Known as Memphis, Tennessee)

Description: In Arkansas: The entire state of Arkansas.

In Mississippi: The entire state of Mississippi.

In Tennessee: Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Lauderdale, Madison, McNairy, Obion (city of Kenton only) Shelby, and Tipton Counties.

In Texas: Aransas, Bee, Bowie, Brazoria, Brooks, Calhoun, Cameron, Cass, Chambers, Colorado, Dimmit, Duval, Fort Bend, Galveston, Goliad, Harris, Hidalgo, Jackson, Jefferson, Jim Hogg, Jim Wells, Kennedy, Kleberg, La Salle, Live Oak, Matagorda, McMullen, Nueces, Refugio, San Patricio, Starr, Victoria, Waller, Webb, Wharton, Willacy, and Zapata.

Current Service Provider: Midsouth Grain Inspection Service.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 4 (Formerly Known as West Sacramento, California)

Description: *In California:* Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Sacramento, San Benito, San Bernardino, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba.

Current Service Provider: California Agri Inspection Company, Ltd.

Exports: Cal-Agri has a special agreement with FGIS to service AMA commodities transported on export waterborne carriers/vessels from the Penny-Newman export elevator in Stockton, CA. All USGSA commodities transported on export waterborne carriers/vessels from the Penny-Newman export elevator are serviced by FGIS.

Area 5 (Formerly Known as Topeka, Kansas)

Description: *In Colorado:* The entire state of Colorado.

In Kansas: The entire state of Kansas.

In Nebraska: Banner, Cheyenne, Deuel, Kimball, Morrill (west of US-385), and Scotts Bluff Counties.

In Wyoming: Goshen, Laramie, and Platt Counties.

Exclusion: The following grain elevator, which is located within the Topeka, Kansas, geographic area, is currently assigned to Hastings Grain Inspection, Inc.: Farmers Coop in the

city of Big Springs, Nebraska, in Deuel County, Nebraska.

Current Service Provider: Kansas Grain Inspection Service, Inc.

Area 6 (Formerly Known as Belmond, Iowa)

Description: *In Georgia:* The entire state of Georgia.

In Iowa: Butler (north of CR C23, east of CR T47, north of CR C33, and west of IA-88), Cerro Gordo, Floyd (north of 280th St and west of Shadow Ave), Franklin (northwest of I-35, north of CR C55, west of CR S56, and north of CR C23), Hancock, Kossuth (east of US-169), Mitchell, Winnebago, Worth, and Wright (North of West Highway 3, east of US-17, north of Broadway St, east of South Kirkwood Ave, north of 5th St S, north of 270th Street, east of US-69, and northwest of I-35) Counties.

In Minnesota: Faribault, Freeborn, and Mower Counties.

In New Jersey: The entire state of New Jersey.

In New York: The entire state of New York.

In South Carolina: Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Colleton, Dorchester, Edgefield, Fairfield, Georgetown, Greenwood, Hampton, Jasper, Laurens, Lexington, McCormick, Newberry, Oconee, Orangeburg, Richland, Saluda, Sumter, and Williamsburg Counties.

Current Service Provider: D.R. Schaal Agency, Inc.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 7 (Formerly Known as Boise, Idaho)

Description: Commodity and/or rice inspections in the entire state of Idaho.

Current Service Provider: Idaho State Department of Agriculture.

Area 8 (Formerly Known as Pocatello, Idaho)

Description: *In Idaho:* Ada, Adams, Bannock, Bear Lake, Bingham, Blaine, Boise, Bonneville, Butte, Camas, Canyon, Caribou, Cassia, Clark, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Teton, Twin Falls, Valley, and Washington Counties.

Current Service Provider: Idaho Grain Inspection Service.

Area 9 (Formerly Known as Olympia, Washington)

Description: *In Idaho:* Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

In Oregon: The entire state of Oregon.

In Washington: The entire state of Washington.

Current Service Provider: Washington Department of Agriculture.

Exports: All export port locations within the Olympia, Washington, geographic area in the state of Oregon are serviced by FGIS, and in the state of Washington, by Washington Department of Agriculture.

Area 10 (Formerly Known as Essex, Illinois)

Description: *In Illinois:* Bureau (east of IL-40), Kankakee (west of I-57 and west of US-52), LaSalle (north of IL-17, north of IL-18 (west side of US-51) and east of US-51 (south of IL-18)), Grundy, Marshall (east of US-51, north of CR 14/IL-17; west of IL-26), Putnam (north of IL-18), Stark, Tazewell (west of IL-26 and IL-116 and north of I-74), Peoria (north of I-74), Will (west of I-57), and Woodford (west of IL-26) Counties.

Current Service Provider: Kankakee Grain Inspection, Inc.

Area 11 (Formerly Known as Urbana, Illinois)

Description: *In Illinois (central section):* Cass, Christian (the area west of CR22, south of CR 2600 N, west of CR 1500 E, south of CR 2500 N, west of N 1600 East Rd., south of E 2100 North Rd., west of IL-48 and N 1600 East Rd., north of CR 900 N, west of CR 1250 E/ N 1250 East Rd., north of E 300 North Rd., and west of CR 1100 E), Greene, Logan (the area south of IL-10, west of 2000th Ave., north of CR 1500N, west of 1800th Ave., north of CR 1400 N, west of 1600th Ave., north of CR 1200 N, west of CR 1325 E, north of CR 1100 N, west of 1175th Ave., north of 950th St./ CR 12, west of CR 937 E, south of 825th St., west of CR 950 E, north of CR 10/ 700th St., northwest of N Gillett St, and west of CR 600 E; and the area south and west of CR 11), Macoupin, Menard, Montgomery (west of CR 6, north of IL-16), Morgan, Pike (south and east of US-54 and IL-107, south of IL-104) Sangamon (the area west of Burrus Rd., south of McLaughlin Rd., west of Buffalo Hart Rd., south of Sherman Rd./ CR 6 1/2, west of Cornland Rd., south of Old Rte. 36, west of Lanesville Rd./CR 34, south of Mechanicsburg Illiopolis Rd./CR 33, west of CR 20 1/4 E/Mt. Auburn Rd./CR 57), Schuyler, and Scott Counties.

In Illinois (eastern section): Champaign, Clark, Coles, Crawford (north and east of IL-33), Douglas, Edgar, Ford, Iroquois, Kankakee (east of US-57 and US-45/US-52), Lawrence (east of IL-33 and north of US-50), Livingston (west of CR 10, south of IL-

116, and west of IL-47), McLean (east of CR 13 north of IL-165, east of CR-15 between IL-165 and US-136), and east of CR 11 south of US-136), Piatt (north of US-72), Vermillion, and Will (east of US-57) Counties.

In Indiana: Benton, Clay, Elkhart, Fountain (west of US-41), Greene, Jasper, Lake, LaPorte, Marshall, Newton, Owen, Parke, Porter, Pulaski, Putnam, St. Joseph, Starke, Sullivan, Vigo, Warren, and White Counties.

In Michigan: Berrien, Cass, and St. Joseph Counties.

Current Service Provider: Champaign-Danville Grain Inspection Departments, Inc.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 12 (Formerly Known as Fargo, North Dakota)

Description: *In Illinois:* Bond, Calhoun, Clay, Clinton, Crawford (south of IL-33), Cumberland, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Jackson (North of IL-3, IL-149, IL-13 and east of US-51), Jasper, Jefferson, Jersey, Lawrence (west of IL-33 south to US-50), Madison, Marion, Monroe, Montgomery (south of IL-16, west and south of CR 6 to CR 7, east of CR 7, and south of CR 15), Perry, Randolph (north of IL-150 and northeast of IL-3), Richland, Saline, St. Clair, Wabash, Washington, Wayne, White, and Williamson Counties.

In Indiana: Adams, Allen, Bartholomew, Blackford, Boone, Brown, Carroll, Cass, Clinton, DeKalb, Delaware, Fayette, Fountain (east of U.S. Route 41), Fulton, Grant, Hamilton, Hancock, Hendricks, Henry, Howard, Huntington, Jay, Johnson, Kosciusko, LaGrange, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Randolph, Rush (north of State Route 244), Shelby, Stueben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, and Whitley Counties.

In Michigan: Clinton (east of US-127), Genesee, Huron (east of MI-53), Ingham (east of US-127), Jackson (east of US-127), Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, Sanilac (east of MI-53 and south of MI-46), Shiawassee (south of MI-21 and east of MI-52), St. Clair, Tuscola (south of MI-46, east of Sheridan Road, south of Barnes Road, and east of MI-15), Washtenaw, and Wayne Counties.

In Minnesota: Aitkin, Becker, Carlton, Cass, Clay, Cook, Crow Wing, Hubbard, Itasca, Koochiching, Lake, Mahnomen, Norman, Otter Tail, St. Louis, Wadena, and Wilkin Counties.

In North Dakota: Barnes (east of ND-1 north and south of I-94), Cass, Dickey (east of ND-1), Griggs (south and east of

ND-45, east of ND-1 and south of ND-200), LaMoure (east of ND-1), Ransom, Richland, Sargent, Steele, and Traill Counties.

In Ohio: Adams (northeast of OH-73), Ashland, Ashtabula, Athens, Belmont, Carroll, Champaign (east of Valley Pike Road, east of OH-560 and north of US-36), Clark (east of US-68), Clinton (east of OH-73, north of US-22, east of US-68), Columbiana, Coshocton, Crawford, Cuyahoga, Darke, Delaware, Erie, Fairfield, Fayette, Franklin, Gallia, Geauga, Greene (east of US-68), Guernsey, Hancock, Hardin (east of US-68), Harrison, Highland (east of OH-73), Hocking, Holmes, Huron, Jackson, Jefferson, Knox, Lake, Lawrence, Licking, Logan (south of OH-47, east of US-68), Lorain, Lucas, Madison, Mahoning, Marion, Medina, Meigs, Monroe, Morgan, Morrow, Muskingum, Noble, Ottawa, Perry, Pickaway, Pike, Portage, Richland, Ross, Sandusky, Scioto, Seneca, Shelby (east of I-75, southeast of OH-47, includes all of Sidney, OH), Stark, Summit, Trumbull, Tuscarawas, Union, Vinton, Washington, Wayne, Wood, and Wyandot Counties.

Current Service Provider: North Dakota Grain Inspection Service, Inc.

Exports: All export waterborne carriers/vessels are serviced by FGIS unless under special agreement. The Wisconsin Department of Agriculture Trade and Consumer Protection services the port of Duluth in Minnesota via special agreement with FGIS.

Area 13 (Formerly Known as Keokuk, Iowa)

Description: *In Illinois:* Adams, Brown, Fulton, Hancock, Mason, McDonough, and Pike (northwest of US-54 northeast to IL-107; IL-107 northeast to IL-104; IL-104 east to the eastern Pike County line) Counties.

In Iowa: Davis, Lee, and Van Buren Counties.

Current Service Provider: Keokuk Grain Inspection Service.

Area 14 (Formerly Known as Cedar Rapids, Iowa)

Description: *In Iowa:* Allamakee, Benton, Black Hawk (east of CR V49, south of CR D38, east of IA-21), Buchanan, Cedar (north of IA-130, east of IA-38, and north of I-80), Clayton, Clinton, Fayette, Jackson, Johnson (north of I-80), Iowa (north of I-80), Jones, Linn, Poweshiek (north of I-80 and east of US-63), Tama (east of IA-21, south of IA-8, south and east of US-63) and Winneshiek Counties.

In Illinois: Carroll, Christian (east of CR 1100E, south of 300N, east of CR 1, south of CR 8, east of 1600E, southeast

of IL-48, east of CR 1800E, north of 2100N, east of 1600E, north of 2500N, east of 1500E, north of 2600N, east of CR 22), De Witt, LaSalle (south of IL-18, west of US-51 and south of IL-17), Livingston (west of IL-47, north of IL-116, west of CR 10), Logan (northeast of Burrus (aka CR 9 N), east of CR 600E, southeast of Gillett Street in Elkhart, south of CR 10, east of 950th Avenue, north of 825th Street, south of CR 12, east of CR 1175E, south of CR 1100N, east of CR 1325E, south of CR 1200N, east of 1800th Avenue, south of CR 1500N, east of 200th Avenue, and north of IL-10), Macon, Marshall (east of IL-26, west of US-51, south of CR 14 and south of IL-17), McLean (west of CR 13, north of E 2600 North Road, west of CR 15, and south of US-136, east of CR 11), Montgomery (east of CR 6, north of IL-16, east and north of CR 6, south of IL-16, west of CR 7, and north of CR 15), Moultrie, Piatt (south of I-72), Putnam (east of CR 26, south of IL-18), Sangamon (east of CR 57, north of CR 33, east of CR 34, south of CR 631, east of Cornland Road, north of Sherman Road, east of Buffalo Hart Road), Shelby, Tazewell (south of I-74, south and east of IL-116, east of IL-26), Peoria (south of I-74), Whiteside, and Woodford (east of IL-26) Counties.

In Minnesota: Fillmore, Houston, Olmstead, Wabasha, and Winona Counties.

Exclusions: The following grain elevators, which are located within the Cedar Rapids, Iowa, geographic area, are currently assigned to Champaign-Danville Grain Inspection Departments, Inc., for official inspection services: East Lincoln Farmers Grain Co. in the city of Lincoln, Illinois, in Logan County, Illinois; Okaw Cooperative in the city of Cadwell, Illinois, in Moultrie County, Illinois; ADM in the city of Farmer City, Illinois, in Dewitt County, Illinois; and Topflight Grain Company in the city of Monticello, Illinois, in Piatt County, Illinois.

Current Service Provider: Mid-Iowa Grain Inspection, Inc.

Area 15 (Formerly Known as Davenport, Iowa)

Description: *In Illinois:* Northern Area: Boone, Cook, DeKalb, DuPage, Jo Daviess, Kane, Kendall, Lake, Lee, McHenry, Ogle Stephenson, and Winnebago Counties. Midwestern Area: Bureau (west of IL-40), Henderson, Henry, Knox, Mercer Rock Island, and Warren Counties.

In Iowa: Northern Area: Delaware and Dubuque Counties. Southern Area: Cedar (south of I-80, east of IA-38, and south of IA-130), Des Moines, Henry, Iowa (south of I-80), Jefferson, Johnson

(south of I-80), Keokuk, Louisa, Muscatine, Scott, Wapello, and Washington Counties.

In Wisconsin: The entire state of Wisconsin, for domestic services.

Current Service Provider: Eastern Iowa Grain Inspection and Weighing Service, Inc.

Exports: All export waterborne carriers/vessels are serviced by FGIS unless under special agreement. In the state of Wisconsin, Milwaukee is serviced by FGIS under special agreement and Superior is serviced by the Wisconsin Department of Agriculture under special agreement.

Area 16 (Formerly Known as Wickliffe, Kentucky)

Description: In Illinois: Alexander, Hardin, Jackson (south of IL-3, IL-149, IL-13 and west of IL-51), Johnson, Massac, Pope, Pulaski, Randolph (south of IL-150 and southwest of IL-3), and Union Counties.

In Kentucky: Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Lyon, Marshall, McCracken, and Trigg Counties.

In Tennessee: Benton, Dickson, Henry, Houston, Humphreys, Lake, Montgomery, Obion (except the city of Kenton), Stewart, and Weakley Counties.

Exclusion: The following grain elevator, which is located within the Wickliffe, Kentucky, geographic area, is currently assigned to Midsouth Grain Inspection Service: Cargill, Inc. in the city of Tiptonville, Tennessee, in Lake County, Tennessee.

Current Service Provider: Cairo Grain Inspection Agency, Inc.

Area 17 (Formerly Known as Cincinnati, Ohio)

Description: In Indiana: Dearborn, Decatur, Franklin, Ohio, Ripley, Rush (south of IN-244), and Switzerland Counties.

In Kentucky: Bath, Boone, Bourbon, Bracken, Campbell, Clark, Fleming, Gallatin, Grant, Harrison, Kenton, Lewis (west of KY-59 and Main Street across the Ohio River to the Adams County line), Mason, Montgomery, Nicholas, Owen, Pendleton, and Robertson Counties.

In Ohio: Adams (southwest of OH-73), Brown, Butler, Champaign (south of US-36 and west of OH-55), Clark (west of I-68), Clermont, Clinton (west of US-68, south of ND-22, and west of OH-73), Greene (west of US-68), Hamilton, Highland (west of OH-73), Miami, Montgomery, Preble, and Warren Counties.

Current Service Provider: Tri-State Grain Inspection Service, Inc.

Area 18 (Formerly Known as Owensboro, Kentucky)

Description: In Indiana: Clark, Crawford, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Orange, Perry, Scott, Spencer, and Washington Counties.

In Kentucky: Allen, Anderson, Barren, Breckinridge, Bullitt, Butler, Carroll, Daviess, Edmonson, Fayette, Franklin, Grayson, Hancock, Hardin, Hart, Henry, Hopkins (north of Wendell H. Ford Western Kentucky Parkway/I-69, east of KY-109 and CR 814), Jefferson, Jessamine, Larue, McLean, Meade, Muhlenberg, Nelson, Ohio, Oldham, Scott, Shelby, Simpson, Spencer, Trimble, Warren, Webster (east of Alternate US-41 and CR 814), and Woodford Counties.

In Tennessee: Anderson, Bedford, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Claiborne, Clay, Cocke, Coffee, Cumberland, DeKalb, Fentress, Franklin, Giles, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Lincoln, Loudon, Macon, Marion, Marshall, Maury, McMinn, Meigs, Monroe, Moore, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Rutherford, Scott, Sequatchie, Sevier, Smith, Sullivan, Sumner, Trousdale, Unicoi, Union, Van Buren, Warren, Washington, White, Williamson, and Wilson Counties.

Current Service Provider: J.W. Barton Grain Inspection Service, Inc.

Area 19 (Formerly Known as Evansville, Indiana)

Description: In Indiana: Daviess, Dubois, Gibson, Knox (except the area west of US-41 and north of US-50), Pike, Posey, Vanderburgh, and Warrick Counties.

In Kentucky: Caldwell, Christian, Crittenden, Henderson, Hopkins (west of KY-109 south of the Wendell H Ford Western Kentucky Parkway), Logan, Todd, Union, and Webster (west of US-41A and CR 814) Counties.

In Tennessee: Cheatham, Davidson, and Robertson Counties.

Current Service Provider: Ohio Valley Grain Inspection, Inc.

Area 20 (Formerly Known as Sioux City, Iowa)

Description: In Iowa: Adair, Adams, Appanoose, Audubon, Black Hawk (west of CR V49 to CR D38, north of CR D38 to IA-21, west of IA-21), Boone, Bremer, Buena Vista, Butler (south of CR C23, west of CR T47, south of CR C33, east of CR T64), Calhoun, Cass, Cherokee, Chickasaw, Clarke, Clay, Dallas, Decatur, Dickinson, Emmet,

Floyd (east of Shadow Ave. and south of 280th St), Franklin (Interstate 35 northeast to C55; C55 east to S41; S41 north to State Route 3; State Route 3 to east U.S. Route 65; U.S. Route 65 north to C25; C25 east to S56; S56 north to C23; C23 east to T47), Greene, Grundy, Guthrie, Hamilton, Hardin, Howard, Humboldt, Ida, Jasper, Kossuth (west of US-169.), Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Monona (north of IA-37 and IA-175), Carroll (east of US-71), Monroe, Montgomery (east of IA-48 and CR/M 47), O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Polk, Poweshiek (west of US-63 to I-80, south of I-80), Ringgold, Sac, Sioux, Story, Tama (west of IA-21 and north of IA-8, north and west of IA-63), Taylor, Union, Warren, Wayne, Webster, Woodbury, and Wright (South of West Highway 3, west of US-17, south of East Broadway St, west of South Kirkwood Ave, south of SE 5th St S, south of 270th Street, west of US-69, and southeast of I-35) Counties.

In Minnesota: Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Renville, Rock, and Yellow Medicine Counties.

In Nebraska: Cedar, Dakota, Dixon, Pierce (north of US-20), and Thurston Counties.

In South Dakota: Bon Homme, Charles Mix (south of SD-44), Clay, Douglas (south of SD-44), Hutchinson (south of SD-44), Lincoln (south of SD-44, west of I-29, south of US-18, west of SD-11, south of CR 140 (288th St.), and east of 486th Ave. South), Turner (south of SD-44), Union, and Yankton Counties.

Exclusions: The following grain elevators, which are located within the Sioux City, Iowa, geographic area, are currently assigned to Omaha Grain Inspection Service, Inc.: Scoular Elevator in the city of Elliot, Iowa, in Montgomery County, Iowa, and two Scoular elevators in the city of Griswold, Iowa, in Cass County, Iowa.

Current Service Provider: Sioux City Inspection and Weighing Service Company.

Area 21 (Formerly Known as Fremont, Nebraska)

Description: In Iowa: Carroll (west of US-71), Crawford, Harrison (east of IA-183 to IA 127 to Loess Hills Trail), and Shelby Counties.

In Nebraska: Burt, Butler, Colfax, Cuming, Dodge, Madison (east of US-81), Pierce (east of US-81 and south of US-20), Platte, Polk, Saunders (west of US-77), Stanton, Washington (north of State Route 91), and Wayne Counties.

Exclusions: The following grain elevators, which are located within the

Fremont, Nebraska, geographic area, are currently assigned to the following service providers for official inspection services: Hastings Grain Inspection Service, Inc.: Huskers Cooperative Grain Company in the city of Columbus, Nebraska in Platte County, Nebraska; Omaha Grain Inspection Service, Inc.: Central Valley Ag in the city of Rising City, Nebraska, in Butler County, Nebraska, and Central Valley Ag in the city of Shelby, Nebraska, in Polk County, Nebraska.

Current Service Provider: Fremont Grain Inspection Department, Inc.

Area 22 (Formerly Known as Lincoln, Nebraska)

Description: In Iowa: Freemont, Mills (south of US-34 and west of I-29), and Page Counties.

In Nebraska: Cass, Gage, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Richardson, Saline, Seward, Thayer (east of CR 5900, south of NE-8, and east of US-81), and York Counties.

Exclusion: The following grain elevator, which is located within the Lincoln, Nebraska, geographic area, is currently assigned to Omaha Grain Inspection Service, Inc., for official inspection services: Haveman Grain in Murray, Nebraska, in Cass County, Nebraska.

Current Service Provider: Lincoln Inspection Service, Inc.

Area 23 (Formerly Known as Council Bluffs, Iowa)

Description: In Iowa: Harrison (west of IA-183), Mills (east of I-29 and north of US-34), Monona (south of IA-175 and IA-37), Montgomery (west of CR 47 and IA-48), and Pottawattamie Counties.

In Nebraska: Douglas, Sarpy, Saunders (east of US-77), and Washington (south of NE-91 and US-30) Counties.

Exclusions: The following grain elevators, which are located within the Council Bluffs, Iowa, geographic area, are currently assigned to Fremont Grain Inspection Department, Inc., for official inspection services: Farmers Union Cooperative Association and Krumel Grain and Storage in the city of Wahoo, Nebraska, in Saunders County, Nebraska.

Current Service Provider: Omaha Grain Inspection Service, Inc.

Area 24 (Formerly Known as Baton Rouge, Louisiana)

Description: In Louisiana: The entire state of Louisiana.

Current Service Provider: Louisiana Department of Agriculture and Forestry.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 25 (Formerly Known as Annapolis, Maryland)

Description: In Maryland: The entire state of Maryland.

Current Service Provider: Maryland Department of Agriculture.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 26 (Formerly Known as Marshall, Michigan)

Description: In Michigan: Alcona, Alger, Allegan, Alpena, Antrim, Arenac, Baraga, Barry, Bay, Benzie, Branch, Calhoun, Charlevoix, Cheboygan, Chippewa, Clare, Clinton (west of US-127), Crawford, Delta, Dickenson, Eaton, Emmet, Gladwin, Gogebic, Grand Traverse, Gratiot, Hillsdale, Houghton, Huron (west of MI-53), Ingham (west of US-127), Ionia, Iosco, Iron, Isabella, Jackson (west of US-127), Kalamazoo, Kalkaska, Kent, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, Mecosta, Menominee, Midland, Missaukee, Montcalm, Montmorency, Muskegon, Newaygo, Oceana, Ogemaw, Ontonagon, Osceola, Oscoda, Otsego, Ottawa, Presque Isle, Roscommon, Sanilac (west of MI-53 and north of MI-46), Schoolcraft, Shiawassee (north of MI-21 and west of MI-52), Tuscola (west of MI-15, north of Barnes Rd., west of Sheridan Rd., and north of MI-46), Saginaw, Van Buren, and Wexford Counties.

In Ohio: Allen, Auglaize, Defiance, Fulton, Hardin (west of US-68), Henry, Logan (west of US-68 and north of OH-47), Mercer, Paulding, Putnam, Shelby (north of OH-47 (and excluding all of Sidney, OH) and west of I-75), Van Wert, and Williams Counties.

Current Service Provider: Michigan Grain Inspection Services, Inc.

Area 27 (Formerly Known as Savage, Minnesota)

Description: In Minnesota: Blue Earth, Brown, Carver, Dakota, Dodge, Goodhue, Hennepin, Le Sueur, McLeod, Nicollet, Ramsey, Rice, Scott, Sibley, Steele, Waseca, Washington, and Watonwan Counties.

Current Service Provider: State Grain Inspection, Inc.

Area 28 (Formerly Known as Jamestown, North Dakota)

Description: In Minnesota: Anoka, Benton, Big Stone, Chippewa, Chisago, Douglas, Grant, Isanti, Kanabec, Kandiyohi, Lac Qui Parle, Meeker, Mille Lacs, Morrison, Pine, Pope, Sherburne,

Stearns, Stevens, Swift, Todd, Traverse, and Wright Counties.

In North Dakota: Adams (northwest corner west of ND-22 and north of US-12), Barnes (west of ND-1, south of I-94), Billings (south of I-94 and east of US-85), Bowman (north of US-12), Burleigh, Dickey (west of ND-1, north/east of US-281), Dunn (south of ND-200), Eddy, Emmons (north of ND-13 to ND-83 then west of ND-83), Foster, Golden Valley (south of I-94), Grant (east of ND-49 to ND-21, north of ND-21), Griggs (west of ND-32, north and west of ND-45 to ND-200 then north of ND-200 and west of ND-1), Hettinger (north of ND-21, west of ND-22), Kidder, Lamoure (west of ND-1), Logan, McKenzie (southeast corner east of US-85, south of ND-200), McLean (east and south of ND-200, west of US Route 83, south and east of ND-41, south of ND-200), Mercer (south of ND-200), Morton, Oliver, Sheridan (south of ND-200), Sioux (east of ND-49), Slope (north of US-12), Stark (south of I-94 and east of US-85), Stutsman, and Wells (south of ND-200, east of ND-3) Counties.

Exclusion: The following grain elevator, which is located within the Jamestown, North Dakota, geographic area, is currently assigned to Minot Grain Inspection, Inc., for official inspection services: SRS Commodities in the city of Washburn, North Dakota in McLean County, North Dakota.

Current Service Provider: Grain Inspection, Inc. (Jamestown).

Area 29 (Formerly Known as Grand Forks, North Dakota)

Description: In Minnesota: Beltrami, Clearwater, Kittson, Lake of the Woods, Marshall, Pennington, Polk, Red Lake, and Roseau Counties.

In North Dakota: Benson, Cavalier, Grand Forks, Nelson, Pembina, Pierce (east of ND-3), Ramsey, Rolette, Towner, and Walsh Counties.

Current Service Provider: Northern Plains Grain Inspection Service, Inc.

Area 30 (Formerly Known as Wisconsin)

Current Service Provider: Wisconsin Department of Agriculture, Trade and Consumer Protection.

Exports: All export waterborne carriers/vessels in the state of Wisconsin are serviced by the Wisconsin Department of Agriculture, Trade and Consumer Protection, excluding the port of Milwaukee which is serviced by FGIS under special agreement. Wisconsin also services the port of Duluth in Minnesota under special agreement with FGIS.

Area 31 (Formerly Known as Jefferson City, Missouri)

Description: In Missouri: The entire state of Missouri.

Current Service Provider: Missouri Department of Agriculture.

Area 32 (Formerly Known as Helena, Montana)

Description: The entire state of Montana.

Current Service Provider: Montana Department of Agriculture.

Area 33 (Formerly Known as Hastings, Nebraska)

Description: In Nebraska: Adams, Antelope, Arthur, Blaine, Boone, Box Butte, Boyd, Brown, Buffalo, Chase, Cherry, Clay, Custer, Dawes, Dawson, Dundy, Fillmore, Franklin, Frontier, Furnas, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Kearney, Keith, Keya Paha, Knox, Lincoln, Logan, Loup, Madison (west of US-81), McPherson, Merrick, Morrill (east of US-385), Nance, Nuckolls, Perkins, Phelps, Red Willow, Rock, Sheridan, Sherman, Sioux, Thayer (west of US-81, north of NE-8 and west of CR 5900), Thomas, Valley, Webster, and Wheeler Counties.

Current Service Provider: Hastings Grain Inspection, Inc.

Area 34 (Formerly Known as Raleigh, North Carolina)

Description: In North Carolina: The entire state of North Carolina.

In South Carolina: Cherokee, Chester, Chesterfield, Darlington, Dillon, Florence, Greenville, Horry, Kershaw, Lancaster, Lee, Marion, Marlboro, Pickens, Spartanburg, Union, and York Counties.

Current Service Provider: North Carolina Department of Agriculture.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 35 (Formerly Known as Minot, North Dakota)

Description: In North Dakota: Billings (north of I-94 and west of US-85), Bottineau, Burke, Divide, Dunn (north of ND-200), Golden Valley (north of I-94), McHenry, McKenzie (except the area south of ND-200 and east of US-85), McLean (except the area south of ND-200 and west of US-83), Mercer (north of ND-200), Mountrail, Pierce (west of ND-3), Renville, Sheridan (north of ND-200), Stark (north of I-94 and west of US-85), Ward, Wells (north of ND-200 and west of ND-3) and Williams Counties.

Exclusion: The following grain elevator is part of this geographic area

assignment in Grain Inspection, Inc.'s, (Jamestown) area: SRS Commodities in the city of Washburn, North Dakota, in McLean County, North Dakota.

Current Service Provider: Minot Grain Inspection, Inc.

Area 36 (Formerly Known as Aberdeen, South Dakota)

Description: In North Dakota (western section): Adams (north of US-12 and east of ND-22, entirety south of US-12), Bowman (south of US-12), Grant (west of ND-49 and south of ND-21), Hettinger (east of ND-22, south of ND-21), Sioux (west of ND-49), and Slope (south of US-12) Counties.

In North Dakota (eastern section): Dickey (west of US-281), Emmons (east of US-83 and south of ND-13), and McIntosh Counties.

In South Dakota: Aurora, Beadle, Bennett, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix (north of SD-44), Clark, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas (north of SD-44), Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson (north of SD-44), Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln (north of SD-44, east of I-29, north of US-18, east of SD-11, north of CR 140, west of 486th Avenue South), Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Sully, Todd, Tripp, Turner (north of SD-44), Walworth, and Ziebach Counties.

Current Service Provider: Aberdeen Grain Inspection, Inc.

Area 37 (Formerly Known as Enid, Oklahoma)

Description: In Oklahoma: Adair, Alfalfa, Atoka, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Choctaw, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Custer, Delaware, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, McClain, McCurtain, McIntosh, Major, Marshall, Mayes, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, and Woodward Counties.

In Texas: Clay, Wichita, and Wilbarger Counties.

Current Service Provider: Enid Grain Inspection Company, Inc.

Area 38 (Formerly Known as Amarillo, Texas)

Description: In Oklahoma: Beaver, Cimarron, and Texas Counties.

In Texas: Armstrong (north of Prairie Dog Town Fork of the Red River), Carson, Childress, Collingsworth, Dallam, Deaf Smith (north of CR FM 1062 and east of US-385), Donley, Gray, Hall (east of US-287), Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall (north of Prairie Dog Town Fork of the Red River, TX-217, US-60 [Canyon], and Farm to Market (FM) 1062), Roberts, Sherman, and Wheeler Counties.

Current Service Provider: Amarillo Grain Exchange, Inc.

Area 39 (Formerly Known as Salem, Oregon)

Description: Commodity and/or rice inspections in the entire state of Oregon.

Current Service Provider: Oregon Department of Agriculture.

Area 40 (Formerly Texas Central)

Description: In Texas: Anderson, Angelina, Atascosa, Austin, Bandera, Bastrop, Bell, Bexar, Blanco, Bosque, Brazos, Brewster, Brown, Burleson, Burnet, Caldwell, Camp, Cherokee, Collin, Comal, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Culberson, Dallas, Delta, Denton, DeWitt, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Franklin, Freestone, Frio, Gillespie, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hudspeth, Hunt, Irion, Jack, Jasper, Jeff Davis, Johnson, Karnes, Kaufman, Kendall, Kerr, Kimble, Kinney, Lamar, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Llano, Loving, McCulloch, McLennan, Madison, Marion, Mason, Maverick, Medina, Menard, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Palo Pinto, Panola, Parker, Pecos, Polk, Presidio, Rans, Reagan, Real, Red River, Reeves, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Shelby, Smith, Somervell, Stephens, Sutton, Tarrant, Terrell, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Walker, Ward, Washington, Williamson, Wilson, Wise, Wood, Young, and Zavala Counties.

Current Service Provider: Grain Inspection Services of Texas, LLC.

Area 41 (Formerly Known as Plainview, Texas)

Description: In Texas: Andrews, Archer, Armstrong (south of the Prairie Dog Town Fork of the Red River), Bailey, Baylor, Borden, Briscoe, Callahan, Castro, Cochran, Coke, Coleman, Cottle, Crosby, Dawson, Deaf Smith (south of CR FM 1062 and west of US-385), Dickens, Ector, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Hale, Hall (west of US-287), Hardeman, Haskell, Hockley, Howard, Jones, Kent, King, Knox, Lamb, Lubbock, Lynn, Martin, Midland, Mitchell, Motley, Nolan, Parmer, Randall (south of CR FM 1062, US-60, TX-217 and the Prairie Dog Town Fork of the Red River), Runnels, Scurry, Shackelford, Sterling, Stonewall, Swisher, Taylor, Terry, Throckmorton, Winkler, and Yoakum Counties.

Current Service Provider: Plainview Grain Inspection and Weighing Service, Inc.

Area 42 (Formerly Known as Salt Lake City, Utah)

Description: In Utah: The entire state of Utah.

Current Service Provider: Utah Department of Agriculture and Food.

Area 43 (Formerly Known as Richmond, Virginia)

Description: In Virginia: The entire Commonwealth of Virginia.

Current Service Provider: Virginia Department of Agriculture and Consumer Services.

Exports: All exports including export waterborne carriers/vessels are serviced by the Virginia Department of Agriculture and Consumer services.

Area 44 (Formerly Known as Cheyenne, Wyoming)

Description: Commodity and/or rice inspections in the entire state of Wyoming.

Current Service Provider: Wyoming Department of Agriculture.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2025-12487 Filed 7-2-25; 8:45 am]

BILLING CODE P**DEPARTMENT OF AGRICULTURE****Food Safety and Inspection Service**

[Docket No. FSIS-2025-0015]

Notice of Request To Renew an Approved Information Collection: Import Inspection Application and Application for the Return of Exported Products to the United States

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to renew an approved information collection regarding import inspection applications. The approval for this information collection will expire on December 31, 2025. FSIS is making no changes to the existing information collection.

DATES: Submit comments on or before September 2, 2025.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to <https://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250-3700.

- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350-E, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2025-0015. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <https://www.regulations.gov>.

Docket: For access to background documents or comments received, call 202-720-5046 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250-3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250-3700; 202-720-5046.

SUPPLEMENTARY INFORMATION: IMPORT INSPECTION APPLICATION AND APPLICATION FOR THE RETURN OF EXPORTED PRODUCTS TO THE UNITED STATES.

OMB Number: 0583-0159.

Type of request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, and properly labeled.

FSIS is requesting renewal of an approved information collection regarding import inspection applications. The approval for this information collection will expire on December 31, 2025. FSIS is making no changes to the existing information collection.

For each consignment of product exported to the United States, FSIS requires the government of the exporting country to provide a Foreign Inspection Certificate. On the Foreign Inspection Certificate, FSIS requires the date; the foreign country of export; the producing foreign establishment number; the species used to produce the product; the source country and foreign establishment number for amenable source materials, if they originate from a country other than the exporting country; the product's description, including the process category, the product category, and the product group; the name and address of the consignor or exporter; the name and address of the consignee or importer; the number of units and the shipping or identification marks on the units; the net weight of each lot; and any additional information the Administrator requests to determine whether the product is eligible to be imported into the U.S.

FSIS also requires an Import Inspection Application (FSIS Form 9540-1), which is completed by an applicant, usually an importer or customs broker. The information required on FSIS Form 9540-1, which is like that required on the foreign

inspection certificate, may be submitted electronically or via paper application.

For importers and brokers participating in the Partner Government Agency (PGA) Message Set, the information on FSIS Form 9540–1 is submitted electronically. Applicants that do not file this information electronically can submit paper applications (FSIS Form 9540–1) to FSIS inspection personnel at an official import inspection establishment. The applicant is required to submit the FSIS Form 9540–1 in advance of the shipment's arrival, but no later than when the entry is filed with CBP (9 CFR 327.5, 381.198, 557.5, 590.920). Return of Exported Products to the United States.

When product inspected and passed by FSIS is exported, but then returned to this country, the owner, broker, or agent of the product (the applicant) arranges for the product's entry and notifies FSIS. In accordance with 9 CFR 327.17, 381.209, 557.17, and 590.965, exported product returned to this country is exempt from FSIS import inspection requirements upon notification to and approval from the Agency's Recall Management and Technical Analysis Staff (RMTAS). RMTAS may require, however, that returned product be re-inspected at a federally-inspected facility for food safety and food defense determinations.

As part of this process, an applicant completes the FSIS Form 9010–1, Application for the Return of Exported Products to the United States. The purpose of the form is to allow RMTAD to decide whether re-inspection of the returned product is needed and to notify the appropriate FSIS office where to perform the re-inspection of the product, if necessary. If FSIS inspection program personnel determine that the product is safe and not adulterated or misbranded, the product may be released into domestic commerce.

FSIS has made the following estimates based upon an information collection assessment:

Estimated total number of respondents: 939.

Estimated annual number of responses: 244,354.

Estimated total annual burden: 49,385 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop

3758, South Building, Washington, DC 20250–3700; 202–720–5046.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: <https://www.fsis.usda.gov/federal-register>.

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service that provides automatic and customized access to selected food safety news and information. This service is available at: <https://www.fsis.usda.gov/subscribe>. The available information ranges from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

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Denise Eblen,

Acting Deputy Under Secretary.

[FR Doc. 2025–12498 Filed 7–2–25; 8:45 am]

BILLING CODE 3410–DM–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Rhode Island Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Rhode Island Advisory Committee (Committee) to the U.S. Commission on Civil Rights will a public meeting via

Zoom. The purpose is for the committee to discuss topic ideas.

DATES: Wednesday, July 30, 2025; 4:00 p.m. EDT.

ADDRESSES:

Registration Link (Audio/Visual):
<https://www.zoomgov.com/webinar/register/WN/FNvpJBMMQ8y8hOu2d7yyXA>.

Join by Phone (Audio Only): 1-833-435-1820 USA Toll Free; Webinar ID: 161 017 4075 #.

FOR FURTHER INFORMATION CONTACT:

Victoria Moreno, Designated Federal Officer, at vmoreno@usccr.gov or 1-434-515-0204.

SUPPLEMENTARY INFORMATION:

Committee meetings are available to the public through a registration link (above). Any interested members of the public may attend committee meetings. An open comment period will be provided to allow members of the public to make oral statements as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of each meeting will include a list of persons who are present. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning is available by selecting "CC" in the meeting platform. To request additional accommodations, please email ebohor@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the scheduled meeting. Written comments may be emailed to Evelyn Bohor at ebohor@usccr.gov. Persons who desire additional information may contact the Regional Programs Coordination Unit at 1-202-656-8937.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via the file sharing website, <https://tinyurl.com/248n7rdj>. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at ebohor@usccr.gov.

Agenda

I. Welcome & Roll Call

- II. Committee Discussion: Leadership Positions & Topic Ideas
- III. Next Steps
- IV. Public Comment
- V. Other Business
- VI. Adjourn

Dated: June 30, 2025.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2025-12410 Filed 7-2-25; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-106]

Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on wooden cabinets and vanities and components thereof (wooden cabinets and vanities) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the "Final Results of Sunset Review" section of this notice.

DATES: Applicable July 3, 2025.

FOR FURTHER INFORMATION CONTACT: Jaye Goodrich, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202-482-2196.

SUPPLEMENTARY INFORMATION:

Background

On April 21, 2020, Commerce published the *Order* in the **Federal Register**.¹ On March 3, 2025, Commerce published the notice of initiation of this first sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).²

On March 18, 2025, Commerce received timely and complete notices of intent to participate in the sunset review for domestic interested parties³ within

the deadline specified in the 19 CFR 351.218(d)(1)(i).⁴ The AKCA claimed interested party status within the meaning of section 771(9)(E) of the Act as a trade or business association a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States.⁵ MasterBrand claimed the interested party status within the meaning of section 771(9)(C) of the Act as a manufacturer, producer, or wholesaler in the United States of a domestic like product.⁶ On March 20, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁷

On April 2, 2025, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed a timely and adequate substantive response.⁸ Commerce did not receive a substantive response from any respondent interested party. On April 22, 2025, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁹ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order*.

Scope of the Orders

The products covered by this *Order* are wooden cabinets and vanities and components thereof from China. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.¹⁰

⁴ See AKCA's Letter, "Notice of Intent to Participate in the First Five-Year Review of the Antidumping Duty Order on Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China," dated March 18, 2025 (AKCA's Notice of Intent to Participate); and MasterBrand's Letter "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Substantive Response to Notice of Initiation of Sunset Review," dated March 18, 2025 (MasterBrand's Notice of Intent to Participate).

⁵ See AKCA's Notice of Intent to Participate at 2.

⁶ See MasterBrand's Notice of Intent to Participate at 2.

⁷ See Commerce's Letter, "Sunset Reviews Initiated on March 3, 2025," dated March 3, 2025.

⁸ See AKCA's Letter, "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Domestic Interested Party's Substantive Response to the Notice of Initiation," dated April 2, 2025; and MasterBrand's Letter, "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Substantive Response to Notice of Initiation of Sunset Review," dated April 2, 2025.

⁹ See Commerce's Letter, "Sunset Reviews Initiated on March 3, 2025," dated March 3, 2025.

¹⁰ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Order on Wooden Cabinets and Vanities and Components Thereof from the People's Republic of

¹ See *Order*.

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 11039 (March 3, 2025).

³ The domestic interested parties are the American Kitchen Cabinet Alliance (AKCA) and MasterBrand Cabinets, LLC (MasterBrand).

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Order* and the magnitude of the margins likely to prevail if the *Order* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.¹¹ A list of the topics discussed in the Issues and Decision Memorandum is attached 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 directly accessed at <https://access.trade.gov/public/FRNNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 262.18 percent.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials, or conversion to judicial protective, orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

China," dated concurrently with, and hereby adopted by, this notice.

¹¹ *Id.*

Dated: June 27, 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. History of the *Order*

V. Legal Framework

VI. Discussion of the Issues

1. Likelihood of Continuation or

Recurrence of Dumping

2. Magnitude of the Margins of Dumping Likely to Prevail

VII. Final Results of Sunset Review

VIII. Recommendation

[FR Doc. 2025-12457 Filed 7-2-25; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-502]

Circular Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that circular welded carbon steel pipes and tubes from Thailand were not sold in the United States at less than normal value during the period of review (POR) March 1, 2023, through February 29, 2024.

DATES: Applicable July 3, 2025.

FOR FURTHER INFORMATION CONTACT: Michael Romani, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0198.

SUPPLEMENTARY INFORMATION:

Background

On April 3, 2025, Commerce published in the **Federal Register** the preliminary results of the 2023–2024 administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes (CWP) from Thailand.¹ We invited

¹ See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2023–2024*, 90 FR 14608

interested parties to comment on the *Preliminary Results*; however, no interested party submitted comments. Accordingly, the final results of this review remain unchanged from the *Preliminary Results* and no decision memorandum accompanies this notice. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by this order are circular welded carbon steel pipes and tubes from Thailand. For a complete description of the scope of the order, see the *Preliminary Results*.²

Rate for Non-Examined Company

The Act and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}."

In this review, we have calculated a weighted-average dumping margin of zero percent for the sole mandatory respondent Thai Steel Pipe Public Co., Ltd. (Saha Thai). Consistent with the court's decision in *Albemarle*,³ and Commerce's practice,⁴ we assigned the sole non-examined company under review, Thai Premium Pipe Co. Ltd. (TPP), a weighted-average dumping margin of zero percent, based on the rate

(April 3, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² *Id.*

³ See *Albemarle Corp. v. United States*, 821 F.3d 1345 (Fed. Cir. 2016) (*Albemarle*).

⁴ See *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021*, 87 FR 60989 (October 7, 2022), unchanged in *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2020–2021*, 88 FR 20218 (April 5, 2023).

calculated for Saha Thai, pursuant to section 735(c)(5)(B) of the Act.		Final Results of Review Commerce determines that the following weighted-average dumping	margin exists for the period March 1, 2023, through February 29, 2024:
Exporter or producer			Weighted-average dumping margin (percent)
Saha Thai Steel Pipe Public Co., Ltd. (also known as Saha Thai Steel Pipe (Public) Company, Ltd.)			0.00
Thai Premium Pipe Co. Ltd			0.00

Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of a 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). However, because we have made no changes to the *Preliminary Results*, there are no calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Where the respondent’s weighted-average dumping margin is either zero or *de minimis* (i.e., less than 0.5 percent), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Accordingly, because Saha Thai’s and TPP’s weighted-average dumping margin is zero percent, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by Saha Thai, for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon

publication in the **Federal Register** of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for Saha Thai and TPP will be equal to the weighted-average dumping margin established in the final results of this administrative review (i.e., 0.00 percent); (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review or another completed segment of this proceeding, but the producer is, then the cash deposit rate will be the company-specific rate established for the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 15.67 percent, the all-others rate established in the less-than-fair-value investigation.⁵ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 the POR. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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. 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 violation subject to sanction.

Notification to Interested Parties

Commerce is issuing and publishing the final results of this review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: June 27, 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.
[FR Doc. 2025–12428 Filed 7–2–25; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE
International Trade Administration
[A–570–174]

Certain Brake Drums From People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.
ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published notice in the **Federal Register** of June 18, 2025, in which Commerce published the final determination of sales at less than fair value (LTFV) investigation of certain brake drums from the People’s Republic of China (China). This notice corrects the scope of the investigation included in Appendix I of that **Federal Register** notice, which incorrectly did not reflect changes that Commerce made to the preliminary scope of the investigation.

FOR FURTHER INFORMATION CONTACT: Samuel Frost, AD/CVD Operations, Office V, Enforcement and Compliance,

⁵ See Order.

International Trade Administration,
U.S. Department of Commerce, 1401
Constitution Avenue NW, Washington,
DC 20230; telephone: (202) 482-8180.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 2025, Commerce published in the **Federal Register** the *Final Determination* in the LTFV investigation of certain brake drums from China.¹ We incorrectly did not update the scope of the investigation included in Appendix I of the *Final Determination* to reflect changes that Commerce made to the preliminary scope of the investigation.²

Correction

In the **Federal Register** of June 18, 2025, in FR Doc 2025-11228, on page 26013, in Appendix I, “Scope of the Investigation,” correct the scope of the investigation so that it reads:

The merchandise covered by this investigation is certain brake drums made of gray cast iron, whether finished or unfinished, with an actual or nominal inside diameter of 14.75 inches or more but not over 16.6 inches, weighing more than 50 pounds. Unfinished brake drums are those which have undergone some turning or machining but are not ready for installation. Subject brake drums are included within the scope whether imported individually or with non-subject merchandise (for example, a hub), whether assembled or unassembled, or if joined with non-subject merchandise. When a subject drum is imported together with non-subject merchandise, such as, but not limited to, a drum-hub assembly, only the subject drum is covered by the scope.

Subject merchandise also includes finished and unfinished brake drums that are further processed in a third country or in the United States, including, but not limited to, assembly or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the subject brake drums. The inclusion, attachment, joining, or assembly of non-subject merchandise with subject drums either in the country of manufacture of the subject drum or in a third country does not remove the

subject drum from the scope. Specifically excluded is merchandise covered by the scope of the antidumping and countervailing duty orders on certain chassis and subassemblies thereof from the People’s Republic of China. *See Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Antidumping Duty Order*, 86 FR 36093 (July 8, 2021) and *Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination*, 86 FR 24844 (May 10, 2021).

The scope also excludes composite brake drums that contain more than 38 percent steel by weight.

The merchandise covered by this investigation is classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8708.30.5020. The merchandise covered by this investigation may be classifiable under HTSUS subheading 8708.30.5090 when entered as part of an assembly. Subject merchandise may also enter under HTSUS subheading 8716.90.5060, 8704.10, 8704.23.01, 8704.32.01, 8704.43.00, 8704.52.00, 8704.60.00, 8708.50.61, 8708.50.6500, 8716.90.5010, 8716.31.00, 8716.39.00, 8716.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Notification to Interested Parties

This notice is issued and published in accordance with sections 705(a)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.210(b)(1).

Dated: June 30, 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.

[FR Doc. 2025-12477 Filed 7-2-25; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF023]

Gulf Fishery Management Council; Public Meetings

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

ACTION: Notice; virtual webinars.

SUMMARY: The Gulf Fishery Management Council (Gulf Council) will hold 4 virtual webinars of the Reef Fish, Coastal Migratory Pelagics, Red Drum, Shrimp, Spiny Lobster and Ad Hoc Individual Fishing Quota Advisory Panels to advise on Executive Order 14276 “Restoring American Seafood Competitiveness” and Executive Order 14192 “Unleashing Prosperity through Deregulation”; and, one Public Engagement webinar.

DATES: The virtual AP webinars will take place Monday, July 21 through Wednesday, July 23, 2025, at 9 a.m. and 1 p.m. Please review **SUPPLEMENTARY INFORMATION** below for dates and times for each Advisory Panel Committee and one Public Engagement webinar.

ADDRESSES: Please visit the Gulf Council website at www.gulfcouncil.org for meeting materials and webinar registration information.

Meeting addresses: The meetings will be held virtually. For specific dates and times, see **SUPPLEMENTARY INFORMATION**.

Council address: Gulf Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348-1630.

FOR FURTHER INFORMATION CONTACT: Dr. Assane Diagne, Economist; assane.diagne@gulfcouncil.org, Gulf Fishery Management Council; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION: The webinars will begin with introductions and adoption of agenda. National Marine Fisheries Service (NMFS) and Council Staff will review the directions received for Executive Order 14276 “Restoring American Seafood Competitiveness” and Executive Order 14192 “Unleashing Prosperity through Deregulation”, hold discussions, offer recommendations, prioritization and rationale of AP Recommendations.

Schedule as follows:

Monday, July 21, 2025

CMP/Red Drum APs at 9 a.m. EDT.
Reef Fish AP at 1 p.m. EDT.

Tuesday, July 22, 2025

Shrimp/Spiny Lobster APs at 9 a.m. EDT.
Public Engagement Session at 6 p.m. EDT.

Wednesday, July 23, 2025

Ad Hoc Individual Fishing Quota AP at 9 a.m. EDT.

Visit www.gulfcouncil.org website and click on the “meetings” tab for registration information. After registering, you will receive a

¹ See *Certain Brake Drums from People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 90 FR 26011 (June 18, 2025) (*Final Determination*).

² See Memorandum, “Antidumping Duty and Countervailing Duty Investigations of Certain Brake Drums from the People’s Republic of China and the Republic of Türkiye: Final Scope Decision Memorandum,” dated June 13, 2025.

confirmation email containing information about joining the webinar.

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

Dated: July 1, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025–12475 Filed 7–2–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF012]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic and New England Fishery Management Councils will hold a public meeting of their joint Northeast Trawl Advisory Panel.

DATES: The meeting will be held on Thursday, July 17, 2025 from 9 a.m. to 5 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: This meeting will be conducted in person with a virtual option available. The meeting will be held at the New Bedford Port Authority 123 MacArthur Dr, New Bedford, MA 02740; telephone: (508) 961–3000. Webinar registration details will be posted to the calendar at www.mafmc.org prior to the meeting.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; www.mafmc.org.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Councils' Northeast Trawl Advisory Panel (NTAP) will meet to review recent developments related to relevant fishery surveys, the Moulton Task Force, and an update on the Regional Industry-Based Trawl Survey pilot project that the NTAP Working Group has been developing. The NTAP will also discuss recent and ongoing scientific fishing efforts that are operating in and around wind farms, including guest speakers from the Virginia Institute of Marine Science, University of Massachusetts

School of marine Science and Technology, Rutgers University, and Cornell Cooperative Extension of Suffolk County.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden, (302) 526–5251 at least 5 days prior to the meeting date.

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

Dated: July 1, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025–12474 Filed 7–2–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF021]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Scientific and Statistical Committee (SSC) of the Mid-Atlantic Fishery Management Council (Council) will hold a meeting.

DATES: The meeting will be held on Tuesday, July 22, 2025, starting at 9:30 a.m. and continue through 12:30 p.m. on Thursday, July 24, 2025. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: This will be an in-person meeting with a virtual option. SSC members, other invited meeting participants, and members of the public will have the option to participate in person at the Courtyard Philadelphia Downtown 1421 Arch Street, Philadelphia, PA or virtually via Webex webinar. Webinar connection instructions and briefing materials will be available at: www.mafmc.org/ssc.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: www.mafmc.org.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: During this meeting, the SSC will make multi-year acceptable biological catch (ABC) recommendations for Bluefish, Summer Flounder, Scup, Black Sea Bass, and *Illex* Squid based on the results of the recently completed management track stock assessments and peer review. The SSC will recommend new 2026–2027 ABC specifications for Bluefish, Summer Flounder, Scup, and Black Sea Bass and new 2026–2028 ABC recommendations for *Illex* Squid. The SSC will review and provide feedback on the draft Ecosystem and Socioeconomic Profile Snapshot for Black Sea Bass. The SSC will also review and finalize the draft white paper developed by an SSC sub-group on the scientific considerations of sector-specific Overfishing Limits (OFLs)/ABCs for Summer Flounder, Scup, and Black Sea Bass. The SSC may take up any other business as necessary.

A detailed agenda and background documents will be made available on the Council's website (www.mafmc.org) prior to the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: July 1, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025–12478 Filed 7–2–25; 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 added to and deleted from the Procurement List: August 3, 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:

Deletions

On May 30, 2025 (90 FR 23037), 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)*: 8530-01-702-8831—Kit, Personal Sanitizing

Authorized Source of Supply: Blind Industries & Services of Maryland, Baltimore, MD

Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

Service(s)

Service Type: Administrative Services
Mandatory for: GSA, Colorado Field Office: 730 Simmons Street; Denver, CO

Authorized Source of Supply: Bayaud Enterprises, Inc., Denver, CO

Contracting Activity: PUBLIC BUILDINGS SERVICE, PBS R8

Service Type: Janitorial/Custodial
Mandatory for: US Army Reserve, PFC Cloyse E. Hall USARC, Salem, VA; 1915

Roanoke Boulevard; Salem, VA
Authorized Source of Supply: Goodwill Industries of the Valleys, Inc., Roanoke, VA

Contracting Activity: DEPT OF THE ARMY, W6QK ACC-PICA

Service Type: Janitorial/Custodial
Mandatory for: US Army Reserve, New River Valley Memorial USARC, Dublin, VA; 5746 Reserve Way; Dublin, VA

Authorized Source of Supply: Goodwill Industries of the Valleys, Inc., Roanoke, VA

Contracting Activity: DEPT OF THE ARMY, W6QK ACC-PICA

Service Type: Custodial service
Mandatory for: US Army Reserve, TSgt Frank D. Peregory USARC, Charlottesville, VA; 1634 Cherry Ave.: Charlottesville, VA

Authorized Source of Supply: Goodwill Industries of the Valleys, Inc., Roanoke, VA

Contracting Activity: DEPT OF THE ARMY, W6QK ACC-PICA

Service Type: Janitorial Service
Mandatory for: US Army Reserve, Hewgley USARC, Knoxville, TN; 1334 East Weisgarber Road; Knoxville, TN

Contracting Activity: DEPT OF THE ARMY, W074 ENDIST CHARLESTON

Service Type: Medical Transcription
Mandatory for: Department of Veteran Affairs, VA Long Beach Healthcare System, 5901 E 7th Street; Long Beach, CA

Authorized Source of Supply: Goodwill Industries of San Antonio Contract Services, San Antonio, TX

Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 262-NETWORK CONTRACT OFFICE 22

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2025-12443 Filed 7-2-25; 8:45 am]

BILLING CODE 6353-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038-0099, Process for a Swap Execution Facility or Designated Contract Market To Make a Swap Available To Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed extension of

a collection of information and to allow 60 days for public comment. This notice solicits comments on the proposed renewal of the Information Collection Request (“ICR”) titled: 3038-0099, Process for a Swap Execution Facility or Designated Contract Market to Make a Swap Available to Trade.

DATES: Comments must be submitted on or before September 2, 2025.

ADDRESSES: You may submit comments, identified by “Renewal of Collection 3038-0099, Process for a Swap Execution Facility or Designated Contract Market to Make a Swap Available to Trade,” by any of the following methods:

- The Agency’s website, <https://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Grey Tanzi, Attorney Advisor, (312) 596-0635; gtanzi@cftc.gov; or Roger Smith, Associate Chief Counsel, (202) 418-5344, rsmith@cftc.gov, Division of Market Oversight, Commodity Futures Trading Commission, 77 West Jackson Boulevard, Suite 800, Chicago, IL 60604 and refer to OMB Control No. 3038-0099.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed extension of the collection of information listed herein. 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.

Title: Process for a Swap Execution Facility or Designated Contract Market to Make a Swap Available to Trade (OMB Control No. 3038–0099). This is a request for extension of a currently approved information collection.

Abstract: The collection of information is needed to determine which swaps should be subject to the trade execution requirement set forth in section 2(h)(8) of the Commodity Exchange Act (“CEA”). A swap execution facility (“SEF”) or designated contract market (“DCM”) that submits a determination that a swap is available to trade must address at least one of several factors demonstrating that the swap is suitable for trading pursuant to the trade execution requirement. The Commission uses this collection of information to facilitate the application of the trade execution requirement and requirements associated with methods of swap execution under Parts 37 and 38 of the Commission’s regulations.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or

remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: Sections 37.10 and 38.12 of the Commission’s regulations include information collection requirements within the meaning of the PRA. These regulations permit a SEF or DCM to submit a determination that a swap is available to trade to the Commission via filing procedures set forth in Part 40 of the Commission’s regulations. The Commission estimates the burden of complying with these information collection requirements to be 16 hours per response.

Respondents/Affected Entities: SEFs, DCMs.

Estimated Number of Respondents: 3.

Estimated Average Burden Hours per

Respondent: 16.

Estimated Total Annual Burden

Hours: 48.

Frequency of Collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: June 30, 2025.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2025–12400 Filed 7–2–25; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0017, Market Surveys

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“CFTC” or “Commission”) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for

public comment. This notice solicits comments on the collections of information associated with market investigations.

DATES: Comments must be submitted on or before September 2, 2025.

ADDRESSES: You may submit comments, identified by “Market Surveys,” Collection Number 3038–0017, by any of the following methods:

- The Agency’s website, at <https://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.

- **Mail:** Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- **Hand Delivery/Courier:** Same as Mail above.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Julia Wood, Assistant Chief Counsel, (312) 554–4567, jwood@cftc.gov, or Roger Smith, Associate Chief Counsel, (202) 418–5344, rsmith@cftc.gov, Division of Market Oversight, Commodity Futures Trading Commission, 77 West Jackson Boulevard, Suite 800, Chicago, IL 60604, and refer to OMB Control No. 3038–0017.

SUPPLEMENTARY INFORMATION: Under the PRA,¹ Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. 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.

Title: Market Surveys (OMB Control No. 3038–0017). This is a request for the extension of a currently approved information collection.

Abstract: Under Part 21 of the Commission’s Rules, 17 CFR 21.00–

¹ 44 U.S.C. 3501 *et seq.*

21.06, the Commission may issue special calls for information from futures commission merchants ("FCMs"), clearing members, members of reporting markets, introducing brokers ("IBs"), foreign brokers, domestic and foreign traders, and reporting markets. This rule is designed to assist the Commission in prevention of market manipulation and is promulgated pursuant to the Commission's rulemaking authority contained in section 8a of the Commodity Exchange Act, 7 U.S.C. 12a.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.²

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable

laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The respondent burden for this collection is estimated to be as follows:

Respondents/Affected Entities: FCMs, clearing members, members of reporting markets, IBs, foreign brokers, domestic and foreign traders, and reporting markets.

Estimated number of respondents: 100.

Estimated average burden hours per respondent: 1.75.

Estimated total annual burden on respondents: 175 hours.

Frequency of collection: On occasion. There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: June 30, 2025.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2025-12401 Filed 7-2-25; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2025-OS-0046]

Proposed Collection; Comment Request

AGENCY: Office of the General Counsel (OGC), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the OGC announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 2, 2025.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Standards of Conduct Office, Office of the General Counsel, Department of Defense, 1600 Defense Pentagon, Washington, DC 20301-1600, Mr. Jeff Green, or call 703-695-3422.

SUPPLEMENTARY INFORMATION:

Title; *Associated Form;* and **OMB Number:** Post Government Employment Advice Opinion Request; DD Form 2945; OMB Control Number 0704-0467.

Needs and Uses: The information collection requirement is necessary to obtain information about post Government employment of select former and departing DoD employees who are seeking to work for Defense Contractors within two years after leaving DoD. The departing or former DoD employees use the form to organize and provide employment-related information to an ethics official who uses the information to render an advisory opinion to the employee requesting the opinion. The National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, section 847, requires that select DoD officials and former DoD officials who, within two years after leaving DoD, expect to receive compensation from a DoD Contractor, shall, before accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

Affected Public: Individuals or households.

Annual Burden Hours: 250.

Number of Respondents: 250.

Responses per Respondent: 1.

² 17 CFR 145.9.

Annual Responses: 250.
Average Burden per Response: 1 hour.
Frequency: On Occasion.

Dated: July 1, 2025.

Stephanie J. Bost,

*Alternate OSD Federal Register Liaison
 Officer, Department of Defense.*

[FR Doc. 2025–12488 Filed 7–2–25; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2025–OS–0047]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Intelligence and Security (OUSD(I&S)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Defense Counterintelligence and Security Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 2, 2025.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal**

Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Counterintelligence and Security Agency, 27130 Telegraph Road, Quantico, VA 22134, Ms. Stepheny Fanning, or 571–572–2456.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of Defense Security Agreement; OMB Control Number 0705–0010.

Needs and Uses: This information collection requirement is necessary for inspecting and monitoring the contractors, licensees, and grantees who require or will require access to, or who store or will store classified information; and for determining the eligibility for access to classified information of contractors, licensees, and grantees and their respective employees.

Affected Public: Business or other for-profit.

Annual Burden Hours: 1,032.
Number of Respondents: 4,423.
Responses per Respondent: 1.
Annual Responses: 4,423.
Average Burden per Response: 14 minutes.

Frequency: On occasion.

Dated: July 1, 2025.

Stephanie J. Bost,

*Alternate OSD Federal Register Liaison
 Officer, Department of Defense.*

[FR Doc. 2025–12490 Filed 7–2–25; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Withdrawal of Notice of Intent (NOI) To Prepare a Draft Environmental Impact Statement for the Jackson Township 900 Project in Sacramento County, California

AGENCY: Corps of Engineers, Department of the Army, DoD.

ACTION: Notice of Intent; withdrawal.

SUMMARY: The U.S. Army Corps of Engineers, Sacramento District (Corps)

is issuing this notice to advise Federal, State and local governmental agencies and the public that the Corps is withdrawing the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Jackson Township 900 Project in Sacramento County, California, which was published in the **Federal Register** on October 14, 2011.

DATES: The notice of intent to prepare an EIS published in the **Federal Register** on October 14, 2011 (76 FR 63911), is withdrawn as of July 3, 2025.

ADDRESSES: U.S. Army Corps of Engineers, Sacramento District, 1325 J Street, Suite 860, Sacramento, California 95814.

FOR FURTHER INFORMATION CONTACT:

Questions concerning this notice should be directed to Regulatory Permit Specialist, Leah M. Fisher at (916) 557–6639 or Leah.M.Fisher@usace.army.mil.

Please refer to identification number SPK–2004–00791.

SUPPLEMENTARY INFORMATION: An NOI to prepare an EIS for the Jackson Township 900 Project was published in the **Federal Register** on October 14, 2011 (76 FR 63911). The proposed project requires Department of the Army (Corps) authorization under Section 404 of the Clean Water Act. Since publication of the NOI, the U.S. Fish and Wildlife published a Final EIS for the South Sacramento Habitat Conservation Plan (SSHCP) in the **Federal Register** on May 15, 2018 (83 FR 22510), for which the Corps was a cooperating agency. Utilizing the Final SSHCP EIS, the Corps developed a Permit Strategy for activities in waters of the United States covered by the SSHCP, including the approval of an in-lieu fee program to meet compensatory mitigation requirements. The proposed project falls within the SSHCP plan area and was incorporated into the Final EIS for the SSHCP. These actions demonstrate that the proposed project is most likely suited for the Corps' SSHCP Letter of Permission procedure for activities with more than minimal but less than significant effects on the human environment. Therefore, the Corps is terminating the EIS process, in accordance with 33 CFR part 230, Appendix C(2) and 33 CFR part 325, Appendix B(8)(g).

Tambour L. Eller,

Programs Director, South Pacific Division.

[FR Doc. 2025–12472 Filed 7–2–25; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP25–971–000.
Applicants: Chesapeake Utilities Corporation—Maryland Division, Chesapeake Utilities of Maryland, Inc.
Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of Chesapeake Utilities Corporation—Maryland Division.
Filed Date: 6/25/25.
Accession Number: 20250625–5181.
Comment Date: 5 p.m. ET 7/7/25.
Docket Numbers: RP25–975–000.
Applicants: EQT Energy, LLC, Olympus Energy LLC.
Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of EQT Energy, LLC, et al.
Filed Date: 6/27/25.
Accession Number: 20250627–5190.
Comment Date: 5 p.m. ET 7/9/25.
Docket Numbers: RP25–976–000.
Applicants: Chesapeake Utilities Corporation—Maryland Division, Chesapeake Utilities of Maryland, Inc.
Description: Joint Petition for Temporary Waivers of Capacity Release Regulations, et al. of Chesapeake Utilities Corporation—Maryland Division, et al.
Filed Date: 6/27/25.
Accession Number: 20250627–5245.
Comment Date: 5 p.m. ET 7/9/25.
Docket Numbers: RP25–977–000.
Applicants: Kern River Gas Transmission Company.
Description: § 4(d) Rate Filing: 2025 June Negotiated TSA Filing to be effective 7/1/2025.
Filed Date: 6/30/25.
Accession Number: 20250630–5061.
Comment Date: 5 p.m. ET 7/14/25.
Docket Numbers: RP25–978–000.
Applicants: Roaring Fork Interstate Gas Transmission, LLC.
Description: Compliance filing: Cost and Revenue Study re CP21–462–000 to be effective N/A.
Filed Date: 6/30/25.
Accession Number: 20250630–5077.
Comment Date: 5 p.m. ET 7/14/25.
Docket Numbers: RP25–979–000.
Applicants: Alliance Pipeline L.P.
Description: § 4(d) Rate Filing: Negotiated Rates—Releases 07–01–2025 to be effective 7/1/2025.
Filed Date: 6/30/25.

Accession Number: 20250630–5083.
Comment Date: 5 p.m. ET 7/14/25.
Docket Numbers: RP25–980–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Neg Rate Agmt—Citadel 320403 Eff 7.1.25 to be effective 7/1/2025.
Filed Date: 6/30/25.
Accession Number: 20250630–5087.
Comment Date: 5 p.m. ET 7/14/25.
Docket Numbers: RP25–981–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements Update (Pioneer July-Oct 2025) to be effective 7/1/2025.
Filed Date: 6/30/25.
Accession Number: 20250630–5105.
Comment Date: 5 p.m. ET 7/14/25.
Docket Numbers: RP25–982–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: TETLP EPC AUG 2025 FILING to be effective 8/1/2025.
Filed Date: 6/30/25.
Accession Number: 20250630–5106.
Comment Date: 5 p.m. ET 7/14/25.
Docket Numbers: RP25–983–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Hartree July 25) to be effective 7/1/2025.
Filed Date: 6/30/25.
Accession Number: 20250630–5109.
Comment Date: 5 p.m. ET 7/14/25.
Docket Numbers: RP25–984–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 7–1–2025 to be effective 7/1/2025.
Filed Date: 6/30/25.
Accession Number: 20250630–5111.
Comment Date: 5 p.m. ET 7/14/25.
Docket Numbers: RP25–985–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Sempra July 2025) to be effective 7/1/2025.
Filed Date: 6/30/25.
Accession Number: 20250630–5113.
Comment Date: 5 p.m. ET 7/14/25.
Docket Numbers: RP25–986–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (EcoEnergy #612617 July–Sep 25) to be effective 7/1/2025.
Filed Date: 6/30/25.

Accession Number: 20250630–5117.
Comment Date: 5 p.m. ET 7/14/25.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, community organization, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: June 30, 2025.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2025–12458 Filed 7–2–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings #2**

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER25–2695–000.
Applicants: Kelso 2 Solar LLC.
Description: § 205(d) Rate Filing: Kelso 2 Solar LLC submits tariff filing per 35.1: Kelso 2 Solar LLC MBR Tariff to be effective 8/11/2025.
Filed Date: 6/27/25.
Accession Number: 20250627–5207.
Comment Date: 5 p.m. ET 7/18/25.
Docket Numbers: ER25–2696–000.
Applicants: Duke Energy Carolinas, LLC.

Description: Tariff Amendment: DEC–DEC– Notice of Termination of SA–679 to be effective 8/27/2025.

Filed Date: 6/27/25.

Accession Number: 20250627–5225.

Comment Date: 5 p.m. ET 7/18/25.

Docket Numbers: ER25–2697–000.

Applicants: Midcontinent

Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2025–06–27 SA 4505 Ameren Missouri–Overton Sedalia East MPFCA to be effective 6/20/2025.

Filed Date: 6/27/25.

Accession Number: 20250627–5227.

Comment Date: 5 p.m. ET 7/18/25.

Docket Numbers: ER25–2698–000.

Applicants: Midcontinent

Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2025–06–30 SA 4506 Ameren Missouri–Belleau Montgomery MPFCA to be effective 6/23/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5040.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2699–000.

Applicants: Midcontinent

Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2025–06–30 MRES Request for Transmission Rate Incentives to be effective 9/1/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5059.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2700–000.

Applicants: Louisville Gas and

Electric Company.
Description: § 205(d) Rate Filing: LGE and KU Amended and Restated Reliability Coordinator Agreement Attachment Q to be effective 9/1/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5076.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2701–000.

Applicants: Vermont Transco LLC.

Description: § 205(d) Rate Filing: 2025 Annual Exhibit A Informational Filing for 1991 Transmission Agreement to be effective 6/30/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5078.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2702–000.

Applicants: Indiana Michigan Power

Company.
Description: § 205(d) Rate Filing: AEP submits one Facilities Agreement re: ILDSA, SA No. 1336 to be effective 9/1/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5110.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2703–000.

Applicants: Alabama Power

Company, Georgia Power Company, Mississippi Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): Enon Grove Generating (IC–1254A) LGIA Filing to be effective 6/16/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5132.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2704–000.

Applicants: Alabama Power

Company, Georgia Power Company, Mississippi Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): Enon Grove Generating (IC–1254B) LGIA Filing to be effective 6/16/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5133.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2705–000.

Applicants: Central Maine Power

Company.
Description: § 205(d) Rate Filing: Executed Wholesale Distribution Service Agreement Between CMP and MRRA to be effective 9/1/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5144.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2707–000.

Applicants: Viridon Path 15 LLC.

Description: § 205(d) Rate Filing: Viridon Revised Appendix I in Path 15 Tariff Reflecting Updated TRR to be effective 8/30/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5151.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2708–000.

Applicants: Midcontinent

Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2025–06–30 SA 4507 Ameren Missouri–McBaine Tap Overton MPFCA to be effective 8/30/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5164.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2709–000.

Applicants: ISO New England Inc.,

New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): Rev to Update Provisions re Letter of Credit Form of Financial Assurance to be effective 9/1/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5179.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2710–000.

Applicants: PJM Interconnection,

L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ISA, Service

Agreement No. 2983; Queue No. T59 to be effective 6/1/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5209.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2711–000.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2025–06–30 Att X–DPP Milestone Refund Improvement to be effective 8/30/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5222.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25–2712–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ISA, Service Agreement No. 2792; Queue No. U1–066 to be effective 6/1/2025.

Filed Date: 6/30/25.

Accession Number: 20250630–5225.

Comment Date: 5 p.m. ET 7/21/25.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES25–52–000.

Applicants: DCR Transmission, L.L.C.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of DCR Transmission, L.L.C.

Filed Date: 6/27/25.

Accession Number: 20250627–5304.

Comment Date: 5 p.m. ET 7/18/25.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH25–11–000.

Applicants: KKR & Co. Inc.

Description: KKR & Co. Inc. submits FERC–65A Notice of Change in Fact to Waiver Notification.

Filed Date: 6/27/25.

Accession Number: 20250627–5293.

Comment Date: 5 p.m. ET 7/18/25.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF25–1063–000.

Applicants: UE–03000CA, LLC.

Description: Form 556 of UE–03000CA, LLC.

Filed Date: 6/30/25.

Accession Number: 20250630–5240.

Comment Date: 5 p.m. ET 7/21/25.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206

of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, community organization, Tribal members and others, access publicly available information and navigate Commission processes.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: June 30, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025-12466 Filed 7-2-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG25-364-000.

Applicants: OSCII Gildersleeve, LLC.

Description: OSCII Gildersleeve, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 6/30/25.

Accession Number: 20250630-5107.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: EG25-365-000.

Applicants: West Boylston Energy Storage I LLC.

Description: West Boylston Energy Storage I LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 6/30/25.

Accession Number: 20250630-5112.

Comment Date: 5 p.m. ET 7/21/25.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-1821-024.

Applicants: Goshen Phase II LLC.

Description: Triennial Market Power Analysis for Northwest Region of Goshen Phase II LLC.

Filed Date: 6/27/25.

Accession Number: 20250627-5294.

Comment Date: 5 p.m. ET 8/26/25.

Docket Numbers: ER10-2854-006.

Applicants: ConocoPhillips Company.

Description: Triennial Market Power Analysis for Southwest Region of ConocoPhillips Company.

Filed Date: 6/27/25.

Accession Number: 20250627-5291.

Comment Date: 5 p.m. ET 8/26/25.

Docket Numbers: ER10-2886-031; ER13-1101-028; ER13-1541-027; ER14-661-018; ER14-787-021; ER15-54-012; ER15-55-012; ER15-1475-013; ER15-2593-012; ER16-452-011; ER16-705-009; ER16-706-009; ER16-1154-010; ER16-1882-005; ER17-252-006; ER17-2508-004; ER21-1988-004; ER21-1989-004.

Applicants: SP Tranquillity Solar Storage, LLC, SP Garland Solar Storage, LLC, RE Gaskell West 1 LLC, 2016 ESA Project Company, LLC, Boulder Solar Power, LLC, Parrey, LLC, RE Garland A LLC, RE Garland LLC, RE Tranquillity LLC, Desert Stateline LLC, North Star Solar, LLC, Blackwell Solar, LLC, Lost Hills Solar, LLC, Macho Springs Solar, LLC, SG2 Imperial Valley LLC, Campo Verde Solar, LLC, Spectrum Nevada Solar, LLC, SP Cimarron I, LLC.

Description: Triennial Market Power Analysis for Southwest Region of SP Cimarron I, LLC, et al.

Filed Date: 6/27/25.

Accession Number: 20250627-5298.

Comment Date: 5 p.m. ET 8/26/25.

Docket Numbers: ER12-2178-019; ER10-2178-046; ER10-2192-046; ER13-1536-030.

Applicants: Exelon Generation Company, LLC, Constellation Energy Commodities Group Maine, LLC, Constellation NewEnergy, Inc., AV Solar Ranch 1, LLC.

Description: Triennial Market Power Analysis for Southwest Region of AV Solar Ranch 1, LLC, et al.

Filed Date: 6/27/25.

Accession Number: 20250627-5299.

Comment Date: 5 p.m. ET 8/26/25.

Docket Numbers: ER13-445-012; ER11-4060-012; ER11-4061-012; ER14-2823-010; ER15-1170-008; ER15-1171-008; ER15-1172-008; ER15-1173-008; ER20-2125-003.

Applicants: WGP Redwood Holdings, LLC, McKittrick Limited, Live Oak Limited, Chalk Cliff Limited, Bear Mountain Limited, Double C Generation Limited Partnership, Kern Front Limited, High Sierra Limited, Badger Creek Limited.

Description: Triennial Market Power Analysis for Southwest Region of Badger Creek Limited, et al.

Filed Date: 6/27/25.

Accession Number: 20250627-5300.

Comment Date: 5 p.m. ET 8/26/25.

Docket Numbers: ER13-1430-015; ER13-1561-014; ER21-965-004; ER21-1259-004.

Applicants: Coso Battery Storage, LLC, Ventura Energy Storage, LLC, Centinela Solar Energy, LLC, Arlington Valley Solar Energy II, LLC.

Description: Triennial Updated Market Power Analysis for Southwest Region of Arlington Valley Solar Energy II, LLC, et al.

Filed Date: 6/27/25.

Accession Number: 20250627-5303.

Comment Date: 5 p.m. ET 8/26/25.

Docket Numbers: ER17-1607-007; ER17-1608-007; ER20-27-007.

Applicants: Wright Solar Park LLC, Sunray Energy 3 LLC, Sunray Energy 2, LLC.

Description: Triennial Market Power Analysis for Southwest Region of Sunray Energy 2, LLC, et al.

Filed Date: 6/27/25.

Accession Number: 20250627-5290.

Comment Date: 5 p.m. ET 8/26/25.

Docket Numbers: ER23-1236-001.

Applicants: SR McNeal, LLC.

Description: Updated Triennial Market Power Analysis for Southwest Region of SR McNeal, LLC.

Filed Date: 6/27/25.

Accession Number: 20250627-5302.

Comment Date: 5 p.m. ET 8/26/25.

Docket Numbers: ER25-1868-001.

Applicants: Portland General Electric Company.

Description: Tariff Amendment: PGE Response to Deficiency Letter OATT Filing for EDAM to be effective 6/2/2025.

Filed Date: 6/30/25.

Accession Number: 20250630-5145.

Comment Date: 5 p.m. ET 7/21/25.

Docket Numbers: ER25-2017-000; ER25-2018-000.

Applicants: Roadrunner Battery Storage LLC, Roadrunner Solar LLC.

Description: Second Supplement to 04/23/2025, Roadrunner Solar LLC, et al., tariff filing.

Filed Date: 6/27/25.

Accession Number: 20250627-5288.

Comment Date: 5 p.m. ET 7/7/25.

Docket Numbers: ER25-2246-000.

Applicants: Camchino Leasing, LLC.

Description: Supplement to 05/16/2025, Camchino Leasing, LLC tariff filing.

Filed Date: 6/26/25.

Accession Number: 20250626-5192.

Comment Date: 5 p.m. ET 7/7/25.

Docket Numbers: ER25–2694–000.

Applicants: Kelso Solar LLC.

Description: § 205(d) Rate Filing: Kelso Solar LLC submits tariff filing per 35.1: Kelso Solar LLC MBR Tariff to be effective 8/11/2025.

Filed Date: 6/27/25.

Accession Number: 20250627–5206.

Comment Date: 5 p.m. ET 7/18/25.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, community organizations, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: June 30, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–12465 Filed 7–2–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5930–003]

Nevada Irrigation District; Notice of Application for Non-Capacity Amendment of License Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Application Type:* Non-Capacity Amendment of License.

b. *Project No:* 5930–003.

c. *Date Filed:* October 9, 2024.

d. *Applicant:* Nevada Irrigation District.

e. *Name of Project:* Scotts Flat Power Project.

f. *Location:* The project is located on Deer Creek near Nevada City in Nevada County, California. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Doug Roderick, 1036 West Main Street, Grass Valley, CA 95945, (530) 271–6866, roderick@nidwater.com.

i. *FERC Contact:* Woohee Choi, (202) 502–6336, woohee.choi@ferc.gov.

j. *Cooperating agencies:* With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests:* July 30, 2025.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the

docket number P–5930–003. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request:* The Nevada Irrigation District (NID) requests Commission approval to replace and repair of the spillway chute and plunge pool. The project dam is a 175-foot-high zoned earth and rockfill embankment, classified as a High Hazard structure. The existing spillway is an uncontrolled concrete gravity structure with a 239-foot-width overflow section. The 600-foot-long spillway chute is a sloped, concrete-lined, and trapezoidal channel. The base width of the spillway chute measures 90 feet at the upstream end and narrows to 40 feet at the downstream end. The spillway apron consists of a curved, trapezoidal, and concrete-lined channel with short vertical training walls. Flow from the spillway chute discharges into a partially shotcrete-lined plunge pool before continuing downstream to Deer Creek.

m. *Locations of the Application:* This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the

Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. Filing and Service of Documents: Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, community organizations, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: June 30, 2025.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2025-12462 Filed 7-2-25; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL25-94-000]

Commonwealth Edison Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On June 30, 2025, the Commission issued an order in Docket No. EL25-94-000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Commonwealth

Edison Company's formula rate for proposed Tariff revisions is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Commonwealth Edison Company*, 191 FERC ¶ 61,244.

The refund effective date in Docket No. EL25-94-000 established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL25-94-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2024), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful

public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, community organizations, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: June 30, 2025.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2025-12461 Filed 7-2-25; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM19-15-002, AD16-16-002]

Qualifying Facility Rates and Requirements Implementation Issues Under the Public Utility Regulatory Policies Act of 1978; Notice of Second Revised Procedural Schedule for the Environmental Assessment for Qualifying Facility Rates and Requirements Implementation Issues Under the Public Utility Regulatory Policies Act of 1978

On July 16, 2020, the Federal Energy Regulatory Commission (Commission) issued Order No. 872,¹ approving certain revisions to its regulations implementing sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA).² On September 5, 2023, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) remanded Order No. 872, without vacatur, based on its finding that, pursuant to the National Environmental Policy Act (NEPA),³ the Commission must prepare an environmental assessment (EA) analyzing the potential impacts of the rule on climate change and air quality.⁴

This notice identifies Commission staff's revised schedule for the completion of the EA. The first revised notice of schedule, issued on December 18, 2024, identified June 30, 2025, as the

¹ *Qualifying Facility Rates & Requirements; Implementation Issues Under the Pub. Util. Regul. Policies Act of 1978*, Order No. 872, 172 FERC ¶ 61,041, *order on reh'g*, Order No. 872-A, 173 FERC ¶ 61,158 (2020), *aff'd in part and remanded in part sub nom. Solar Energy Indus. Ass'n v. FERC*, 80 F.4th 956 (9th Cir. 2023) (*Solar Energy*).

² 16 U.S.C. 796(17)-(18), 824a-3.

³ 42 U.S.C. 4321 *et seq.*; see also 18 CFR pt. 380 (2024) (Commission's regulations implementing NEPA).

⁴ *Solar Energy*, 80 F.4th at 996-97.

issuance date. Commission staff issued the initial notice of schedule on September 26, 2024.

By this notice, Commission staff is updating the procedural schedule⁵ and setting forth a second revised schedule for completion of the EA, in order to provide Commission staff more time to complete its analysis. The revised schedule is shown below.

Schedule for Environmental Review

Issuance of EA September 26, 2025
End of Public Comment Period
October 26, 2025

The Commission strongly encourages electronic filing. Please file using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number RM19-15-002. Comments emailed to Commission staff are not considered part of the Commission record.

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including

landowners, environmental justice communities, Tribal members, and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Additional information about the final rule is available from the Commission's Office of External Affairs at (866) 208-FERC or on the FERC website (www.ferc.gov). Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" excluding the last three digits (*i.e.*, RM19-15), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208-3676, TTY (202) 502-8659, or at FERCOnlineSupport@ferc.gov. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: June 30, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025-12460 Filed 7-2-25; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP-OFA-185]

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 June 23, 2025 10 a.m. EST

Through June 27, 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. 20250093, Revised Draft, USACE, MS, Pearl River Basin, Mississippi Federal Flood Risk Management Project, Comment Period Ends: 08/18/2025, Contact: Jason Emery 504-862-2364.

Amended Notice:

EIS No. 20250068, Draft, USACE, LA, 2025 Draft GRR SEIS Mississippi

River, Baton Rouge to the Gulf of Mexico Mississippi River-Gulf Outlet, Louisiana, New Industrial Canal Lock and Connecting Channels Project, Comment Period Ends: 09/02/2025, Contact: Mark H. Lahare 504-862-1344.

Revision to FR Notice Published 05/30/2025; Extending the Comment Period from 07/17/2025 to 09/02/2025.

Dated: June 27, 2025.

Nancy Abrams,

Associate Director, Office of Federal Activities.

[FR Doc. 2025-12346 Filed 7-2-25; 8:45 am]

BILLING CODE 6560-50-P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday, July 10, 2025.

PLACE: You may observe the open portions of this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102-5090, or virtually. If you would like to observe, at least 24 hours in advance, visit FCA.gov, select "Newsroom," then select "Events." From there, access the linked "Instructions for board meeting visitors" and complete the described registration process.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The following matters will be considered:

PORTIONS OPEN TO THE PUBLIC:

- Approval of June 12, 2025, Minutes.
- Report on Food Hubs.

PORTIONS CLOSED TO THE PUBLIC:

- Future of Office of Examination Workgroup Report.¹

CONTACT PERSON FOR MORE INFORMATION:

If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703-883-4009. TTY: 703-883-4056.

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2025-12447 Filed 7-1-25; 11:15 am]

BILLING CODE 6705-01-P

¹ Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8).

⁵ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX-19-20-000-1726219809.

FEDERAL COMMUNICATIONS COMMISSION**[OMB 3060–0316, OMB 3060–0750; FR ID 301036]****Information Collections Being Submitted for Review and Approval to Office of Management and Budget****AGENCY:** Federal Communications Commission.**ACTION:** Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before August 4, 2025.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box,

(5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060–0316.

Title: 47 CFR 76.5, Definitions, 76.1700, Records to Be Maintained Locally by Cable System Operators; 76.1702, Equal Employment Opportunity; 76.1703, Commercial Records on Children’s Programs; 76.1707, Leased Access; 76.1711, Emergency Alert System (EAS) Tests and Activation.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 3,000 respondents; 3,000 responses.

Estimated Time per Response: 14 hours.

Frequency of Response: Recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 562, 571, 572, 573.

Total Annual Burden: 42,000 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval for the extension of a currently approved collection. The information collection requirements for this information collection are as follows: 47 CFR 76.1700 requires cable system operators to place the public inspection file materials required to be retained by the following rules in the online public file hosted by the Commission: Sections 76.1701 (political file); 76.1702 (EEO); 76.1703 (commercial records for children’s programming); 76.1707 (leased access); 76.1709 (availability of signals); 76.1715 (sponsorship identification); and 76.630 (compatibility with consumer electronics equipment).

47 CFR 76.1700(b) requires cable system operators to make the records required to be retained by the following rules available to local franchising authorities: Sections 76.1704 (proof-of-performance test data) and 76.1713 (complaint resolution).

47 CFR 76.1700(c) requires cable system operators to make the records required to be retained by the following rules available to the Commission: Sections 76.1704 (proof-of-performance test data); 76.1706 (signal leakage logs and repair records); 76.1711 (emergency alert system and activations); 76.1713 (complaint resolution); and 76.1716 (subscriber records).

47 CFR 76.1700(d) exempts cable television systems having fewer than 1,000 subscribers from the online public file and the public inspection requirements contained in 47 CFR 76.1701 (political file); 76.1702 (equal employment opportunity); 76.1703 (commercial records for children’s programming); 76.1704 (proof-of-performance test data); 76.1706 (signal leakage logs and repair records); and 76.1715 (sponsorship identifications).

47 CFR 76.1700(e) requires, for cable systems exempt from the online public file requirement, that public file material that continues to be retained at the system be retained in a public inspection file maintained at the office which the system operator maintains for the ordinary collection of subscriber

charges, resolution of subscriber complaints, and other business or at any accessible place in the community served by the system unit(s) (such as a public registry for documents or an attorney's office). Public files must be available for public inspection during regular business hours.

47 CFR 76.1700(f) requires cable systems to provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the system has a website, and provide contact information on its website for a system representative who can assist any person with disabilities with issues related to the content of the public files. A system also is required to include in the online public file the address of the system's local public file, if the system retains documents in the local file that are not available in the Commission's online file, and the name, phone number, and email address of the system's designated contact for questions about the public file. In addition, a system must provide on the online public file a list of the five digit ZIP codes served by the system.

47 CFR 76.1700(g) requires that cable operators make any material in the public inspection file that is not also available in the Commission's online file available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies must be fulfilled at a location specified by the system operator, within a reasonable period of time, which in no event shall be longer than seven days. The system operator is not required to honor requests made by mail but may do so if it chooses.

47 CFR 76.1702(a) requires that every employment unit with six or more full-time employees shall maintain for public inspection a file containing copies of all EEO program annual reports filed with the Commission and the equal employment opportunity program information described in 47 CFR 76.1702(b). These materials shall be placed in the Commission's online public inspection file for each cable system associated with the employment unit. These materials must be placed in the Commission's online public inspection file annually by the date that the unit's EEO program annual report is due to be filed and shall be retained for a period of five years. A headquarters employment unit file and a file containing a consolidated set of all documents pertaining to the other employment units of a multichannel video programming distributor that

operates multiple units shall be maintained in the Commission's online public file for every cable system associated with the headquarters employment unit.

47 CFR 76.1702(b) requires that the following equal employment opportunity program information shall be included annually in the unit's public file, and on the unit's website, if it has one, at the time of the filing of its FCC Form 396-C: (1) A list of all full-time vacancies filled by the multichannel video programming distributor employment unit during the preceding year, identified by job title; (2) For each such vacancy, the recruitment source(s) utilized to fill the vacancy (including, if applicable, organizations entitled to notification, which should be separately identified), identified by name, address, contact person and telephone number; (3) The recruitment source that referred the hiree for each full-time vacancy during the preceding year; (4) Data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and (5) A list and brief description of the initiatives undertaken during the preceding year, if applicable.

47 CFR 76.1703 requires that cable operations airing children's programming must maintain records sufficient to verify compliance with 47 CFR 76.225 and make such records available to the public. Such records must be maintained for a period sufficient to cover the limitation period specified in 47 U.S.C. 503(b)(6)(B). Cable television operators must file their certifications of compliance with the commercial limits in children's programming annually within 30 days after the end of the calendar year.

47 CFR 76.1707 requires that if a cable operator adopts and enforces a written policy regarding indecent leased access programming pursuant to § 76.701, such a policy will be considered published pursuant to that rule by inclusion of the written policy in the operator's public inspection file.

47 CFR 76.1711 requires that records be kept of each test and activation of the Emergency Alert System (EAS) procedures pursuant to the requirements of 47 CFR part 11 and the EAS Operating Handbook. These records shall be kept for three years.

47 CFR 76.5 defines certain terms covered in the cable industry.

OMB Control Number: 3060-0750.

Title: 47 CFR 73.671, Educational and Informational Programming for

Children; 47 CFR 73.673, Public Information Initiatives Regarding Educational and informational Programming for Children.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,767 respondents; 1,123,812 responses.

Estimated Time per Response: 0.017–0.084 hours.

Frequency of Response: Third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 303, and 336 of the Communications Act of 1934, as amended.

Total Annual Burden: 57,463 hours.

Total Annual Cost: None.

Needs and Uses: On July 10, 2019, the Commission adopted a Report and Order in MB Docket Nos. 18–202 and 17–105, FCC 19–67, In the Matter of Children's Television Programming Rules; Modernization of Media Regulation Initiative, which modernizes the children's television programming rules in light of changes to the media landscape that have occurred since the rules were first adopted. The Report and Order revises the following information collection requirements:

Pursuant to 47 CFR 73.671(c)(5), each commercial television broadcast station must identify programming as specifically designed to educate and inform children by the display on the television screen throughout the program of the symbol E/I. This requirement is intended to assist parents in identifying educational and informational programming for their children. Noncommercial television broadcast stations are no longer required to identify Core Programming by displaying the E/I symbol throughout the program.

Pursuant to 47 CFR 73.671(e), each television broadcast station that preempts an episode of a regularly scheduled weekly Core Program on its primary stream will be permitted to count the episode toward the Core Programming processing guidelines if it reschedules the episode on its primary stream in accordance with the requirements of 47 CFR 73.671(e). Similarly, each television broadcast station that preempts an episode of a regularly scheduled weekly Core Program on a multicast stream will be permitted to count the episode toward the Core Programming processing guidelines if it reschedules the episode

on the multicast stream in accordance with the requirements of 47 CFR 73.671(e). Among other requirements, the station must make an on-air notification of the schedule change during the same time slot as the preempted episode. The on-air notification must include the alternate date and time when the program will air. This requirement will help to ensure that parents and children are able to locate the rescheduled program.

Pursuant to 47 CFR 73.673, each commercial television broadcast station licensee must provide information identifying programming specifically designed to educate and inform children to publishers of program guides. This requirement is intended to improve the information available to parents regarding programming specifically designed for children's educational and informational needs. Commercial television broadcast station licensees are no longer be required to provide program guide publishers an indication of the age group for which the programming is intended. The Report and Order finds that very few program guides include this information.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2025-12500 Filed 7-2-25; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the

standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than July 18, 2025.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166-2034. Comments can also be sent electronically to

Comments.applications@stls.frb.org;

1. *Minor Weller UTMA, Eaden D. Fleming, as custodian, both of Mt. Olive, Illinois*; to join the Fleming Family Control Group, a group acting in concert, to retain voting shares of LBT Bancshares, Inc., and thereby indirectly retain voting shares of Bank & Trust Company, both of Litchfield, Illinois.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025-12470 Filed 7-2-25; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

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

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors.

This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than August 4, 2025.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to

Applications.Comments@atl.frb.org;

1. *Millennium Bancshares, Inc., Ooltewah, Tennessee*; to merge with North Georgia Community Financial Partners, Inc., and thereby indirectly acquire North Georgia National Bank, both of Calhoun, Georgia.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025-12469 Filed 7-2-25; 8:45 am]

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OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0136; Docket No. FAR-2025-0053; Sequence No. 9]

Submission for OMB Review; Commercial Acquisitions

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management

and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to OMB a request to review and approve an extension of a previously approved information collection requirement regarding commercial acquisitions.

DATES: Submit comments on or before August 4, 2025.

ADDRESSES: Written comments and recommendations for this 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0136, Commercial Acquisitions.

B. Need and Uses

This clearance covers the information that offerors may be required to submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

FAR 52.212–3, Offeror Representations and Certifications—Commercial Products and Commercial Services. Paragraph (b)(2) requires offerors to identify the applicable paragraphs at (c) through (v) of this provision that the offeror has completed for the purposes of the relevant solicitation only, if any. The provision stipulates that any changes provided by the offeror under paragraph (b)(2) are applicable to that specific solicitation only, and do not result in an update to the representations and certifications posted electronically in the System for Award Management. The contracting officer will use the information to determine an offeror’s eligibility for award, and to incorporate appropriate terms and conditions into a resulting contract as appropriate.

C. Annual Burden

Respondents: 140,055.
Total Annual Responses: 414,909.
Total Burden Hours: 207,455.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 90 FR 14450, on April 2, 2025. Three comments were received; however, they did not change the estimate of the burden.

Summary of Comments: A respondent indicated that the collection is a good way to make sure the project can achieve its objective. Another respondent indicated that the collection ensures offerors take responsibility to comply with the regulatory requirements. Another respondent expressed support for the collection to prevent waste, fraud, and abuse.

Response: The respondents’ input is appreciated. The respondents did not oppose the extension of the collection of information.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000–0136, Commercial Acquisitions.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025–12446 Filed 7–2–25; 8:45 am]

BILLING CODE 6820–EP–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0032; Docket No. FAR–2025–0053; Sequence No. 7]

Submission for OMB Review; Contractor Use of Interagency Fleet Management System Vehicles

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has

submitted to OMB a request to review and approve an extension of a previously approved information collection requirement regarding contractor use of interagency fleet management system vehicles.

DATES: Submit comments on or before August 4, 2025.

ADDRESSES: Written comments and recommendations for this 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0032, Contractor Use of Interagency Fleet Management System Vehicles.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

FAR 51.202—For the contracting officer to authorize a contractor’s use of Interagency Fleet Management System (IFMS) vehicles, this FAR section requires contractors to submit the following information:

(1) A written statement that the contractor will assume, without the right of reimbursement from the Government, the cost or expense of any use of the IFMS vehicles and services not related to the performance of the contract;

(2) Evidence that the contractor has obtained motor vehicle liability insurance covering bodily injury and property damage, with limits of liability as required or approved by the agency, protecting the contractor and the Government against third-party claims arising from the ownership, maintenance, or use of an IFMS vehicle; and

(3) Any recommendations.

FAR 51.203—Once authorized by the contracting officer, this FAR section requires contractors to submit their request for IFMS vehicles and related services in writing to the appropriate GSA point of contact and include the following information:

(1) Two copies of the agency authorization;

(2) The number of vehicles and related services required and period of use;

(3) A list of employees who are authorized to request the vehicles or related services;

(4) A listing of equipment authorized to be serviced; and

(5) Billing instructions and address.

The contracting officer will use the information to determine the contractor's eligibility to obtain IFMS vehicles and related services, and to authorize this use. The GSA will also use this information to determine whether appropriate authorization has been granted by the contracting officer.

C. Annual Burden

Respondents: 20.

Total Annual Responses: 20.

Total Burden Hours: 20.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 90 FR 14446, on April 2, 2025. A comment was received; however, it did not change the estimate of the burden.

Comment: The respondent recommended no private contractor be allowed to operate government fleet vehicles because of concerns of potential abuse or misconduct.

Response: The respondents' input is appreciated. Any changes to the collection of information on the use of fleet vehicles by contractors will require rulemaking.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0032, Contractor Use of Interagency Fleet Management System Vehicles.

Janet Fry,

Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.

[FR Doc. 2025-12452 Filed 7-2-25; 8:45 am]

BILLING CODE 6820-EP-P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0184; Docket No. FAR-2025-0053; Sequence No. 10]

Submission for OMB Review; Contractors Performing Private Security Functions Outside the United States

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to OMB a request to review and approve an extension of a previously approved information collection requirement regarding contractors performing private security functions outside the United States.

DATES: Submit comments on or before August 4, 2025.

ADDRESSES: Written comments and recommendations for this 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 Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202-969-4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000-0184, Contractors Performing Private Security Functions Outside the United States.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

FAR 52.225-26, Contractors Performing Private Security Functions Outside the United States. When

contract performance is required outside the United States in an area of combat operations or significant military operations, this clause requires contractors to ensure employees performing private security functions under the contract comply with 32 CFR part 159, and any orders, directives, or instructions that are identified in the contract for:

- Registering, processing, accounting for, managing, overseeing, and keeping appropriate records of personnel performing private security functions;
- Requesting authorization of and accounting for weapons to be carried by or available to personnel performing private security functions;
- Registering and identifying armored vehicles, helicopters, and other military vehicles operated by employees performing private security functions; and
- Reporting incidents in which personnel performing private security functions: discharge a weapon; are attacked, killed, or injured; kill or injure a person or destroy property as a result of conduct by contractor personnel; have a weapon discharged against them or believe a weapon was so discharged; or employ active, non-lethal countermeasures in response to a perceived immediate threat.

The Government uses the information provided to ensure accountability, visibility, force protection, medical support, personnel recovery, and other related support can be accurately forecasted and provided to deployed contractors, as required.

C. Annual Burden

Respondents: 28.

Total Annual Responses: 140.

Total Burden Hours: 70.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 90 FR 14448, on April 2, 2025. Several comments were received from four respondents; however, they did not change the estimate of the burden.

Comments on the Need and Utility of the Information Collection: Two respondents expressed support for the collection. A respondent stated that "the collection of data on private security contractors operating abroad remains necessary for accountability and human rights monitoring, but the utility can be significantly improved by requiring disaggregation of incident reports by location, contractor, and demographic details (e.g., gender, nationality, civilian vs. combatant status)."

Response: The respondents' input is appreciated. Any changes to the

collection of information on contractors performing private security functions outside the US will require rulemaking.

Comment on the Burden Estimate: A respondent stated that “the estimate of 70 burden hours annually appears low given the complexity and seriousness of the required reporting on weapons discharge incidents, personnel injuries, and military vehicle registration.” The respondent recommended reassessing the burden estimate “using recent case studies of contractor reporting complexity in areas like Iraq and Afghanistan.”

Response: The information collection burden estimate covers only contractors of non-DoD agencies. The information is collected from DoD contractors under OMB Control Number 0704-0460, Synchronized Predeployment and Operational Tracker Enterprise Suite (SPOT-ES) System.

Comments on expanding reporting requirements: Two respondents provided many recommendations to improve accuracy, timeliness, oversight, accountability, and the transparency of the collected information. Key recommendations include clarifying the definitions of “significant military operations,” “security incidents,” and “use of force”; requiring readiness certifications for medical evacuation resources; increasing transparency through public incident reports; implementing post-contract reviews; incorporating third-party incident reporting and independent audits; mandating human rights and environmental impact reporting; collecting data on contractor workforce protections, gender, and diversity; and encouraging broader adoption of automated, secure digital reporting platforms.

Response: The respondents’ input is appreciated. Any changes to the collection of information on contractors performing private security functions outside the US will require rulemaking.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0184, Contractors Performing Private Security Functions Outside the United States.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025-12450 Filed 7-2-25; 8:45 am]

BILLING CODE 6820-EP-P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0026; Docket No. FAR-2025-0053; Sequence No. 14]

Submission for OMB Review; Change Order Accounting and Notification of Changes

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to OMB a request to review and approve an extension and revision of a previously approved information collection requirement regarding change order accounting and notification of changes.

DATES: Submit comments on or before August 4, 2025.

ADDRESSES: Written comments and recommendations for this 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202-969-4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000-0026, Change Order Accounting and Notification of Changes.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the Federal Acquisition Regulation (FAR) part 43 requirements as stated in the following clauses:

FAR 52.243-1, Changes—Fixed-Price, 52.243-2 Changes—Cost-Reimbursement, and 52.243-3 Changes—Time-and-Materials or Labor-

Hours. Contractors are required to assert their right to an adjustment under these clauses within 30 days after receipt of a written change order from the contracting officer.

FAR 52.243-4, Changes. For acquisitions for dismantling, demolition, or removal of improvements; and fixed-price construction contracts that exceed the simplified acquisition threshold, the contractor must assert its right to an adjustment under this clause within 30 days after receipt of a written change order or the furnishing of a written notice, by submitting to the contracting officer a written statement describing the general nature and amount of proposal, unless this period is extended by the Government. The written notice covers any other written or oral order (which includes direction, instruction, interpretation, or determination) from the contracting officer that causes a change. The contractor gives the contracting officer written notice stating (1) the date, circumstances, and source of the order and (2) that the contractor regards the order as a change order. The statement of proposal for adjustment may be included in the written notice.

FAR 52.243-6, Change Order Accounting. The contracting officer may require change order accounting whenever the estimated cost of a change or series of related changes exceeds \$100,000. The contractor, for each change or series of related changes, shall maintain separate accounts, by job order or other suitable accounting procedure, of all incurred segregable, direct costs (less allocable credits) of work, both changed and not changed, allocable to the change. The contractor shall maintain these accounts until the parties agree to an equitable adjustment or the matter is conclusively disposed of under the Disputes clause. This requirement is necessary in order to be able to account properly for costs associated with changes in supply and research and development (R&D) contracts of significant technical complexity, if numerous changes are anticipated, or construction contracts if deemed appropriate by the contracting officer.

FAR 52.243-7, Notification of Changes. The clause is available for use primarily in negotiated R&D or supply contracts for the acquisition of major weapon systems or principal subsystems. If the contract amount is expected to be less than \$1,000,000, the clause shall not be used, unless the contracting officer anticipates that situations will arise that may result in a contractor alleging that the Government has effected changes other

than those identified as such in writing and signed by the contracting officer. The contractor shall notify the Administrative Contracting Officer in writing if the contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the contractor regards as a change to the contract terms and conditions. This excludes changes identified as such in writing and signed by the contracting officer. On the basis of the most accurate information available to the contractor, the notice shall state—

(1) The date, nature, and circumstances of the conduct regarded as a change;

(2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;

(3) The identification of any documents and the substance of any oral communication involved in such conduct;

(4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;

(5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including—

(i) What line items have been or may be affected by the alleged change;

(ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;

(iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;

(iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

(6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

Contracting officers use the notices and information provided by contractors in response to a change notice to negotiate an equitable adjustment under the contract that may result from the change order.

C. Annual Burden

Respondents and Recordkeepers: 4,774.

Total Annual Responses: 11,532.

Total Burden Hours: 11,532. (9,656 reporting hours + 1,876 recordkeeping hours).

D. Public Comment

A 60-day notice was published in the **Federal Register** at 90 FR 15464, on April 11, 2025. A comment was received; however, it did not change the estimate of the burden.

Comment: The respondent expressed the following: "This agency collection should not be renewed based on improper implementation of the original contract and noncompliance of the regulations associated with the agreement. This also has legal implications for the agreement in place and this is an additional taxpayer burden for country."

Response: The respondents' input is appreciated. Any changes to the collection of information on change order accounting and notification of changes will require rulemaking.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0026, Change Order Accounting and Notification of Changes.

Janet Fry,

Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.

[FR Doc. 2025-12449 Filed 7-2-25; 8:45 am]

BILLING CODE 6820-EP-P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0029; Docket No. FAR-2025-0053; Sequence No. 15]

Submission for OMB Review; Extraordinary Contractual Action Requests

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the

Regulatory Secretariat Division has submitted to OMB a request to review and approve an extension of a previously approved information collection requirement regarding extraordinary contractual action requests.

DATES: Submit comments on or before August 4, 2025.

ADDRESSES: Written comments and recommendations for this 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 Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202-969-4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000-0029, Extraordinary Contractual Action Requests.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

FAR 50.103-3, Contract Adjustment. This section specifies the minimum information that a contractor must include when seeking a contract adjustment that would facilitate the national defense, as set forth in Public Law 85-804. The request, normally a letter, shall state as a minimum -

(1) The precise adjustment requested;

(2) The essential facts, summarized chronologically in narrative form;

(3) The contractor's conclusions based on these facts, showing, in terms of the considerations set forth in FAR 50.103-1 and 50.103-2, when the contractor considers itself entitled to the adjustment; and

(4) Whether or not -

(i) All obligations under the contracts involved have been discharged;

(ii) Final payment under the contracts involved has been made;

(iii) Any proceeds from the request will be subject to assignment or other transfer, and to whom; and

(iv) The contractor has sought the same, or a similar or related, adjustment from the Government Accountability Office or any other part of the Government, or anticipates doing so.

If the request exceeds the simplified acquisition threshold, the contractor must certify that the request is made in good faith and the data are accurate and complete.

FAR 50.103–4, Facts and Evidence. This section covers additional information that the contracting officer or other agency official may request from the contractor to support any request made under FAR 50.103–3.

FAR 50.104–3 Special Procedures for Unusually Hazardous or Nuclear Risks. This section provides the information a contractor shall submit to the contracting officer when requesting the inclusion of the indemnification clause for unusually hazardous or nuclear risks at FAR 52.250–1.

FAR 52.250–1, Indemnification Under Public Law 85–804. This clause allows contractors to be indemnified against unusually hazardous or nuclear risks. Paragraph (g) requires the contractor to promptly notify the contracting officer and furnish pertinent information for any claim or loss that may involve indemnification under the clause.

The Government uses this information to determine if relief can be granted to the contractor and to determine the appropriate type and amount of relief.

C. Annual Burden

Respondents: 20.

Total Annual Responses: 30.

Total Burden Hours: 1,440.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 90 FR 15465, on April 11, 2025. A comment was received; however, it did not change the estimate of the burden.

Comment: The respondent expressed the following: “This collection should not be renewed based on an improper implementation upon setup. This also should not be considered based on the significant legal impact for the initial contract. This is important to address for the noncompliant agreement in place and the taxpayer dollars utilized over the years.”

Response: The respondents’ input is appreciated. Any changes to the collection of information on extraordinary contractual action requests will require rulemaking.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB

Control No. 9000–0029, Extraordinary Contractual Action Requests.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2025–12451 Filed 7–2–25; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–460]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS’ intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency’s functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by August 4, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT:

William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection: *Title of Information Collection:* Medicare Participating Physician or Supplier Agreement; *Use:* Form CMS–460 is the agreement a physician, supplier, or their authorized official signs to become a participating provider in Medicare Part B. By signing the agreement to participate in Medicare, the physician, supplier, or their authorized official agrees to accept the Medicare-determined payment for Medicare covered services as payment in full and to charge the Medicare Part B beneficiary no more than the applicable deductible or coinsurance for the covered services. For purposes of this explanation, the term “supplier” means certain other persons or entities, other than physicians, that may bill Medicare for Part B services (e.g., suppliers of diagnostic tests, suppliers of radiology services, durable medical suppliers (DME) suppliers, nurse practitioners, clinical social workers, physician assistants). Institutions that render Part B services in their outpatient department are not considered

“suppliers” for purposes of this agreement. *Form Number:* CMS–460 (OMB control number: 0938–0373); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for-profits; *Number of Respondents:* 14,029; *Number of Responses:* 14,029; *Total Annual Hours:* 3,507. (For questions regarding this collection contact Mark G. Baldwin at 410–786–8139.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2025–12399 Filed 7–2–25; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10749 and CMS–8550]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS’ intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency’s functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by September 2, 2025.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and

recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection’s supporting statement and associated materials (see **ADDRESSES**).

CMS–10749 National Plan and Provider Enumeration System Supplemental Data Collection
CMS–8550 Registration for Eligible Ordering and Referring Physicians and Non-Physician Practitioners

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this

requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection*
Request: Reinstatement without change of a previously approved collection;
Title of Information Collection: National Plan and Provider Enumeration System (NPPES) Supplemental Data Collection;
Use: The adoption by the Secretary of HHS of the standard unique health identifier for health care providers is a requirement of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The unique identifier is to be used on standard transactions and may be used for other lawful purposes in the health care system. The CMS Final Rule published on January 23, 2004 adopts the National Provider Identifier (NPI) as the standard unique health identifier for health care providers. Health care providers that are covered entities under HIPAA must apply for and use NPIs in standard transactions. The law requires that data collection standards for these measures be used, to the extent that it is practical, in all national population health surveys. It applies to self-reported optional information only. The law also requires any data standards published by HHS to comply with standards created by the Office of Management and Budget (OMB).

The web based optional data fields can be seen in Appendix A1: Data Collected for the Office of Minority and Appendix A2: Data collected for the 21st Century Cures Act, interoperability. The standards apply to population health surveys sponsored by HHS, where respondents either self-report information or a knowledgeable person responds for all members of a household. HHS is implementing these data standards in all new surveys. *Form Number:* CMS–10749 (OMB control number: 0938–1427); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 545,648; *Total Annual Responses:* 545,648; *Total Annual Hours:* 92,760. (For policy questions regarding this collection contact Nora Simmons at 410–786–1981.)

2. *Type of Information Collection*
Request: Revision of a currently approved collection; *Title of Information Collection:* Medicare Registration Application; *Use:* Various sections of the Social Security Act (Act), the United States Code (U.S.C.), Internal Revenue Service Code (Code) and the Code of Federal Regulations (CFR) require providers and suppliers to furnish information concerning the

amounts due and the identification of individuals or entities that furnish medical services to beneficiaries before allowing payment. The principal function of the CMS-855O is to gather information from a physician or other eligible professional to help CMS determine whether he or she meets certain qualifications to enroll in the Medicare program for the sole purpose of ordering or certifying certain Medicare items or services. The CMS-855O allows a physician or other eligible professional to enroll in Medicare without approval for billing privileges.

The collection and verification of this information protects our beneficiaries from illegitimate providers/suppliers. These procedures also protect the Medicare Trust Funds against fraud. The CMS-855O gathers information that allow Medicare contractors to ensure that the physician or eligible professional is not sanctioned from the Medicare and/or Medicaid program(s), or debarred, or excluded from any other Federal agency or program. Furthermore, the data collected also ensures that the applicant has the necessary credentials to order and certify health care services. This is the sole instrument implemented for this purpose.

Form Number: CMS-855O (OMB control number 0938-1135); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profits), State, Local, or Tribal Governments; *Number of Respondents:* 2,250; *Number of Responses:* 2,250; *Total Annual Hours:* 1,125. (For policy questions regarding this collection contact Frank Whelan at 410-786-1302).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2025-12402 Filed 7-2-25; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-N-1108]

Agency Information Collection Activities; Proposed Collection; Comment Request; 510(k) Third-Party Review Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is

announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with the 510(k) Third-Party Review Program.

DATES: Either electronic or written comments on the collection of information must be submitted by September 2, 2025.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 2, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets

Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. [FDA-2025-N-1108] for "Agency Information Collection Activities; Proposed Collection; Comment Request; 510(k) Third-Party Review Program." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts

and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the

information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Agency Information Collection Activities; Proposed Collection; Comment Request; 510(k) Third-Party Review Program

OMB Control Number 0910-0375—Revision

Section 523 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360m), directs FDA to accredit persons in the private sector to review certain premarket notifications (510(k)s; see 21 U.S.C. 360(k)). Participation in the 510(k) third party (3P510k) review program by accredited persons is entirely voluntary. A third party wishing to participate will submit a request for accreditation to FDA. Accredited third-party reviewers have the ability to review a manufacturer’s 510(k) submission for selected devices. After reviewing a submission, the reviewer will forward a copy of the 510(k) submission, along with the reviewer’s documented review and recommendation, to FDA. Third-party reviewers should maintain records of their 510(k) reviews and a copy of the 510(k) for a reasonable period of time, usually 3 years. The 3P510k review program is intended to allow review of devices by third-party 510k review organizations (3PROs) to provide manufacturers of these devices an alternative review process that allows FDA to best utilize our resources on higher risk devices.

Respondents to this information collection are businesses or government and can be for-profit or not-for-profit

organizations, such as third party review organizations.

The guidance “510(k) Third-Party Review Program, Guidance for Industry, Food and Drug Administration Staff and Third Party Review Organizations” (March 2020) was intended to provide a comprehensive look into FDA’s current thinking regarding the 3P510k program and third party review of Emergency Use Authorization (EUA) requests by describing FDA’s expectations for the review of 510(k) submissions and EUA requests by third party review organizations. This guidance document also reflects section 523 of the FD&C Act, which directs FDA to issue guidance on the factors that will be used in determining whether a class I or class II device type, or subset of such device types, is eligible for review by an accredited person. This guidance was superseded on November 21, 2024, when FDA issued the final guidance “510(k) Third Party Review Program and Third Party Emergency Use Authorization (EUA) Review; Guidance for Industry, Food and Drug Administration Staff, and Third Party Review Organizations” (November 2024) (available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/510k-third-party-review-program-and-third-party-emergency-use-authorization-eua-review>). The guidance also includes new content that outlines how FDA may contract with third party review organizations to perform reviews of EUA requests (3PEUA review) when appropriate emergency declaration authorities are active under section 564 of the FD&C Act. (See OMB Control Number 0910-0595.)

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN¹

Activity; guidance document section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Requests for accreditation (initial); Section V.D	1	1	1	40	40
Requests for accreditation (re-recognition); Section V.D	3	1	3	24	72
510(k) reviews conducted by 3PROs; Section V.B	9	14	126	40	5,040
Complaints; Section V.C	1	1	1	0.25 (15 minutes) ...	0.25
Total					5,152.25

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

Activity; guidance document section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
510(k) reviews conducted by 3PROs; Section V.B	9	14	126	10	1,260

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹—Continued

Activity; guidance document section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Records regarding qualifications to receive FDA recognition as a 3PRO; Section V.C	9	1	9	1	9
Recordkeeping system regarding complaints; Section V.C	9	1	9	2	18
Total					1,287

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Upon review of this information collection, we have adjusted our burden estimate for the average burden hours required per response for initial requests for accreditation from 24 to 40 hours to more accurately reflect the time required based on recent experience of FDA program staff. This adjustment has resulted in an increase of 15 hours to the currently approved burden.

Dated: June 26, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–12416 Filed 7–2–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–2301]

Small Volume Parenteral Drug Products and Pharmacy Bulk Packages for Parenteral Nutrition: Aluminum Content and Labeling Recommendations; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled “Small Volume Parenteral Drug Products and Pharmacy Bulk Packages for Parenteral Nutrition: Aluminum Content and Labeling Recommendations.” This draft guidance is intended to clarify the key factors in calculating the aluminum content to ensure that the total aluminum exposure in parenteral nutrition (PN) does not exceed an acceptable threshold. It also provides FDA’s recommendations regarding the aluminum concentration limits for small volume parenterals (SVPs) packaged as single doses or SVPs packaged in pharmacy bulk packages (PBPs). Additionally, this draft guidance is

intended to assist sponsors and applicants in determining the appropriate placement of information on aluminum toxicity in SVP and large volume parenteral (LVP) Prescribing Information and container and carton labeling. This draft guidance revises and replaces the draft guidance for industry of the same name published on December 7, 2022.

DATES: Submit either electronic or written comments on the draft guidance by September 2, 2025 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2022–D–2301 for “Small Volume Parenteral Drug Products and Pharmacy Bulk Packages for Parenteral Nutrition: Aluminum Content and Labeling Recommendations.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20

and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Thao Vu, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5232, Silver Spring, MD 20993-0002, 240-402-2690.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised draft guidance for industry entitled "Small Volume Parenteral Drug Products and Pharmacy Bulk Packages for Parenteral Nutrition: Aluminum Content and Labeling Recommendations." Aluminum, one of the most abundant metallic elements on earth, occurs naturally in several minerals, ores, oxides, and silicates. Although humans are exposed to aluminum through drinking water, food, and drugs, absorption of aluminum through the gastrointestinal tract (oral bioavailability) is low; therefore, healthy individuals typically face little risk of aluminum toxicity. However, in the settings of chronic kidney failure or prolonged PN treatment in neonates, aluminum toxicity has manifested as osteomalacia and reduced bone mineralization, neurological dysfunction including dialysis encephalopathy, microcytic hypochromic anemia, and cholestasis.

A long-implicated, major source of aluminum exposure is PN, resulting from contamination of ingredients or leaching through the container during manufacturing. Patients with underlying renal impairment who receive prolonged courses of PN are at greatest risk of exposure to toxic levels of aluminum from PN. Preterm neonates and infants, who have immature kidneys that are incapable of excreting aluminum efficiently and may require weeks of PN before transitioning to oral nutrition, are at particularly high risk.

This draft guidance is intended to clarify the key factors in calculating the aluminum content to ensure that the total aluminum exposure in PN does not exceed an acceptable threshold. It also provides FDA's recommendations regarding the aluminum concentration limits for SVPs packaged as single doses or SVPs packaged in PBPs. Additionally, this draft guidance is intended to assist sponsors and applicants in determining the appropriate placement of information on aluminum toxicity in SVP and LVP Prescribing Information and container and carton labeling; it revises and replaces the draft guidance for industry of the same name published on December 7, 2022 (87 FR 75052). Interested parties' comments were considered, and the following key changes were made:

- Revised the Introduction section to clarify the intended purpose; the key factors in calculating the aluminum content; the need for aluminum mitigation and control strategies for SVP, PBP, and LVP development; and labeling considerations for aluminum toxicity in SVPs, PBPs, and LVPs;
- Clarified the examples showing the calculations of total aluminum exposure, individual aluminum exposure, and aluminum concentration limits, as well as the data supporting FDA's recommendation for total aluminum exposure; and
- Added section VI to provide advice regarding implementation of this guidance, particularly steps manufacturers should take if a drug shortage arises.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on "Small Volume Parenteral Drug Products and Pharmacy Bulk Packages for Parenteral Nutrition: Aluminum Content and Labeling Recommendations." It does not establish any rights for any person and is not binding on FDA or the public.

You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. As we develop any final guidance on this topic, FDA will consider comments on the applicability of Executive Order 14192, per the Office of Management and Budget (OMB) guidance M-25-20, and in particular, on any costs or cost savings.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by OMB under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3521). The collections of information in 21 CFR part 314 have been approved under OMB control number 0910-0001. The collections of information in 21 CFR part 312 have been approved under OMB control number 0910-0014. The collections of information in FDA's guidance entitled "Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products" (available at <https://www.fda.gov/media/109951/download>) have been approved under OMB control number 0910-0001. The collections of information in 21 CFR 201.56 and 201.57 have been approved under OMB control number 0910-0572. The collections of information in FDA's guidance entitled "Formal Meetings Between FDA and ANDA Applicants of Complex Products Under GDUFA" (available at <https://www.fda.gov/media/107626/download>) and in FDA's guidance entitled "Controlled Correspondence Related to Generic Drug Development" (available at <https://www.fda.gov/media/109232/download>) have been approved under OMB control number 0910-0727.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>.

Dated: June 27, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025-12403 Filed 7-2-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket Nos. FDA–2024–N–2381, FDA–2024–N–2019, FDA–2014–N–0987, FDA–2024–N–1382, and FDA–2022–N–1894]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: The following is a list of FDA information

collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the internet at <https://www.reginfo.gov/public/do/PRAMain>. 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.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
Medical Device Recall Authority	0910–0432	3/31/2028
Guidance for Industry and FDA Staff; Class II Special Controls: Automated Blood Cell Separator Device Operating by Centrifugal or Filtration Separation Principle	0910–0594	3/31/2028
Generic Clearance for the Collection of Qualitative Data on Tobacco Products and Communications	0910–0796	3/31/2028
Electronic User Fee Payment Form Requests	0910–0805	3/31/2028
Yale-Mayo Clinic Centers of Excellence in Regulatory Science and Innovation B12 Pediatric Device Survey	0910–0912	3/31/2028

Dated: June 26, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–12414 Filed 7–2–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. FDA–2025–P–0333]

Determination That SYNDROS (Dronabinol) Solution, 5 Milligrams/ Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) has determined that SYNDROS (dronabinol) solution, 5 milligrams (mg)/milliliter (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for SYNDROS (dronabinol) solution, 5 mg/mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Awo Archampong-Gray, Center for Drug Evaluation and Research, Food and

Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6243, Silver Spring, MD 20993–0002, 301–796–0110, Awo.Archampong-Gray@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale

for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

SYNDROS (dronabinol) solution, 5 mg/mL, is the subject of NDA 205525, held by Chartwell Scheduled, LLC, and initially approved on July 1, 2016. SYNDROS is indicated in adults for the treatment of anorexia associated with weight loss in patients with acquired immune deficiency syndrome; and of nausea and vomiting associated with cancer chemotherapy in patients who have failed to respond adequately to conventional antiemetic treatments.

SYNDROS (dronabinol) solution, 5 mg/mL, is currently listed in the “Discontinued Drug Product List” section of the Orange Book.

Lachman Consultant Services, Inc. submitted a citizen petition dated January 20, 2025 (Docket No. FDA–2025–P–0333), under 21 CFR 10.30, requesting that the Agency determine whether SYNDROS (dronabinol) solution, 5 mg/mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that SYNDROS (dronabinol) solution, 5 mg/mL, was not withdrawn from sale for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that SYNDROS (dronabinol) solution, 5 mg/mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of SYNDROS (dronabinol) solution, 5 mg/mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list SYNDROS (dronabinol) solution, 5 mg/mL, in the “Discontinued Drug Product List” section of the Orange Book. The “Discontinued Drug Product List” delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to SYNDROS (dronabinol) solution, 5 mg/mL, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: June 30, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–12444 Filed 7–2–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0894]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; The Real Cost Monthly Implementation Assessment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of

information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by August 4, 2025.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. The title of this information collection is “The Real Cost Monthly Implementation Assessment.” Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

The Real Cost Monthly Implementation Assessment

OMB Control Number 0910—NEW

This information collection supports the development and implementation of FDA public education campaigns related to tobacco use. To reduce the public health burden of tobacco use in the United States and educate the public—especially young people—about the dangers of tobacco use, the FDA Center for Tobacco Products (CTP) is developing and implementing multiple public education campaigns.

FDA launched “The Real Cost” in February 2014, seeking to reduce tobacco use among at-risk teens ages 12–17 in the United States who are open to using tobacco products, or who have already experimented with tobacco products. Complementary evaluation studies, including the “Evaluation of FDA’s Public Education Campaign on Teen Tobacco (ExPECTT),” were implemented to measure awareness of “The Real Cost” paid media campaign among teens ages 12–17 in the United States, and to understand how awareness is related to change in key outcomes.

Although outcome evaluation studies of “The Real Cost” have and continue

to assess the impact of awareness on outcomes, no studies have sought to assess the implementation of “The Real Cost.” As FDA continues to increase the presence of “The Real Cost” on digital channels (e.g., Hulu, YouTube, Instagram), the need for an implementation evaluation has become clear as these messages are received by the target audience on digital channels differently compared to how the messages are received on broadcast channels. Before the migration of campaign ads to digital channels, ads from “The Real Cost” were primarily aired on broadcast TV. In the broadcast space, for people to avoid receiving the message, they needed to be proactive (e.g., finding the remote to change the channel or leaving the room). In the digital space, however, people need to be proactive to watch the full message, like stopping scrolling on social media or watching the full ad on YouTube. Assessment of this information is integral to understanding self-reported ad awareness levels, as well as how our audience experiences and processes the ads as they are airing in a digital setting.

Therefore, we propose to establish an umbrella generic ICR to help us understand, in a digital setting, how teens experience the messages, how they engage with messages, the extent to which teens report being exposed to messages, and how teens process the messages. Data gathered from this assessment will also provide the necessary and timely information to optimize campaign messages, the digital media buy (i.e., where, how, and when ads are shown), and creative rotations (i.e., which ads are shown).

“The Real Cost” Monthly Implementation Assessment (MIA) umbrella generic is a mixed methods generic information collection (gen IC) mechanism that will be conducted using virtual discussion groups or interviews, as well as web-based surveys that are self-administered on personal computers or web enabled mobile devices to collect rapid data on “The Real Cost” stimuli. Survey data from up to 2,000 teens in the United States will be collected each month for up to 24 months. To be eligible, participants must be between the ages of 12–20 and have not taken the MIA survey within the past 3 months. Mixed methods data from up to 400 participants ages 12–20 years in the United States will be collected on a quarterly basis (i.e., collected an average of four times a year). Participants will only be eligible to participate in an MIA mixed methods study if they have not already participated within the past year. We will use an Ipsos Knowledge Panel to

collect data on “The Real Cost” stimuli. This design offers flexibility to assess new stimuli messages, as they air across various digital platforms, examine their performance over time, as well as the ability to pivot and add new survey measures as necessary. Monthly data will also allow us to obtain timely information on stimuli awareness, perceived effectiveness, as well as on teen attention and processing of the stimuli.

The purpose of FDA’s “The Real Cost” MIA generic information collection is to evaluate the following key components about “The Real Cost” stimuli:

- Awareness of “The Real Cost” brand and stimuli.
- Attention behaviors when seeing “The Real Cost” stimuli.
- Processing of “The Real Cost” stimuli, including:
 - Engagement with the stimuli.

- Main message comprehension.
 - Acceptance and/or rejection of the stimuli.
 - Perceived effectiveness of “The Real Cost” stimuli.
 - Potential unintended consequences of viewing “The Real Cost” stimuli.
- In addition to the above components, the gen IC study will ask participants to report on tobacco use and other psychographic and demographic items. The time frame that the survey items will ask about for stimuli awareness (*i.e.*, past 30 days or past week) will depend on several factors, including how long the stimuli was on air. Each gen IC survey will take an average of approximately 25 minutes to complete per participant. As the survey items are tested, any irrelevant items will be cut as necessary. Stimuli creative for cigarette products and emerging tobacco products (*e.g.*, electronic nicotine delivery systems or ENDS) will be

assessed; therefore, two similar surveys (one on ENDS-focused or emerging tobacco product stimuli and one on cigarette-focused stimuli) will be fielded as appropriate, but not within the same month.

In support of the provisions of the Tobacco Control Act that require FDA to protect the public health and to reduce tobacco use by minors, FDA requests OMB approval to collect information to evaluate CTP’s public education campaign “The Real Cost” through the MIA under an umbrella generic information collection.

In the **Federal Register** of April 27, 2023 (88 FR 25660), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Type of respondent; activity	Number of respondents	Number of responses per respondent	Total responses	Average burden per response	Total hours
Parent Screener	2,457,310	1	2,457,310	0.05 (3 minutes)	122,866
Parent Permission	1,842,983	1	1,842,983	0.05 (3 minutes)	92,149
Each Invitation Emails (Respondents ages 18–20)	54,577	1	54,577	0.02 (1 minute)	1,092
Youth Assent	29,836	1	29,836	0.05 (3 minutes)	1,492
Young Adult Consent	21,364	1	21,364	0.05 (3 minutes)	1,068
Online Survey	48,000	1	48,000	0.42 (25 minutes)	20,160
Mixed Methods (Online Survey + Virtual Discussion Group or Interview)	3,200	1	3,200	1.5 (90 minutes)	4,800
Reminder Emails	51,200	1	51,200	0.20 (12 minutes)	10,240
Total					253,867

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Data collection under the MIA umbrella generic will occur over the course of 2 years (24 months) and will consist of administering a monthly survey to approximately 2,000 participants aged 12 to 20 and a quarterly mixed methods data collection to approximately 400 participants aged 12 to 20. We expect the screening process (3 minutes per response) to yield an approximate 2.3 to one ratio of eligible participants. We will need to screen approximately 97,440 potential participants each month (resulting in 2,457,310 screeners) over the study period. Since the eligible age for data collection is 12 to 20 years old, we intend to screen parents of eligible youth and young adults. Parents of the youth participants determined to be eligible through the screener will provide parent permission (3 minutes per response). We estimate that 1,842,983 of the parents who complete the screener will provide their permission for their youth to complete the online survey (approximately 75 percent of the 2,457,310 screened). In

addition to recruiting respondents through parents, we will send direct invitations to young adult panel members (18–20 years old). We anticipate that 50 percent of young adults will agree to participate. We will send 508 direct invitations a month to young adult panel members (18–20 years old). Eligible youth (1,753,920) will provide their assent (3 minutes per response) to participate in the online survey (25 minutes per response). Participants who are 18 to 20 (19 to 20 in Alabama and Nebraska in accordance with state law) will provide their consent (3 minutes per response) to participate in the online survey. We estimate that approximately 42 percent of the 48,000 completed surveys will come from young adults aged 18 to 20 (19 to 20 in Alabama and Nebraska).

Over the course of the 24-month study period, we intend to survey approximately 2,000 young people ages 12–20 per month and have approximately 400 young people participate in mixed methods data collections per quarter. From completed

screeners, we estimate that we will obtain data from approximately 29,836 youth and 21,364 young adults. This will give us a total of 48,000 participants for the survey study and 3,200 participants for the mixed methods data collection. The survey will be repeated with a new cross-sectional sample approximately every month over a period of 24 months; however, some participants will complete more than one wave. These 51,200 respondents will receive an invitation email to take part of the MIA study (1 minute) and 6 reminder emails (1 minutes each) for a total of 25 minutes for respondents to read and respond to the emails.

Several changes have been made to this information collection request since the 60-day notice was published in the **Federal Register**. These changes include: (1) editing to clarify that the ad campaign is intended for “teens” not just “youth”, (2) removing the focus on video ads since the campaign may use other forms of communication to deliver its message and replacing the term “ad”

with “stimuli”, (3) removing the youth screener from the burden table because parents determine the eligibility of their youth aged 12–17 (18 to 20 in Alabama and Nebraska in accordance with state law), (4) removing the young adult screener from the burden table, which will not be needed because young adult panel members (18–20 years old) will only receive an email invitation to complete the survey, (5) updating the burden table to reflect that we will send direct invitations to young adult panel members (18–20 years old), (6) updating the permission, assent, and consents because of updated information on the expected sample breakdown from the sample vendor for the distribution of the sample who are 12–17 and 18–20, (7) removing the thank you email since that will not be a part of the data collection procedures, (8) updating the focus of the stimuli and survey because FDA will assess cigarettes, e-cigarettes, and other emerging tobacco products and (9) updating the annualized cost burden estimates based on current data. In addition to the implementation evaluation described above, we will conduct formative evaluation to assess perceptions to proposed stimuli and potential unintended consequences in order to inform the development of future messaging.

In addition to those changes described above since the publication of the 60-day **Federal Register** notice, on our own initiative for efficiency of Agency operations, we are revising the information collection request from a “stand-alone” to an umbrella generic. This change will enable FDA to rotate and test different modules of the MIA study on a monthly basis and collect mixed methods data in a timely and efficient manner.

Dated: June 26, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–12420 Filed 7–2–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–0956]

Agency Information Collection Activities; Proposed Collection; Comment Request; Warning Plans for Certain Tobacco Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions associated with warning plans for certain tobacco products.

DATES: Either electronic or written comments on the collection of information must be submitted by September 2, 2025.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 2, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2025–N–0956 for “Agency Information Collection Activities; Proposed Collection; Comment Request; Warning Plans for Certain Tobacco Products.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the

electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use

of automated collection techniques, when appropriate, and other forms of information technology.

Warning Plans for Certain Tobacco Products

OMB Control Number 0910–0671—Revision

Tobacco products are governed by chapter IX of the Federal Food, Drug, and Cosmetic Act (sections 900 through 920) (21 U.S.C. 387 through 21 U.S.C. 387t). Implementing regulations are found in 21 CFR subchapter K (21 CFR parts 1100 through 1150). Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (the Smokeless Tobacco Act) (15 U.S.C. 4402) requires, among other things, that all smokeless tobacco product packages and advertisements bear one of four required warning statements. (15 U.S.C. 4402(a)(1)). The label statements specified in 15 U.S.C. 4402(a)(1) must be randomly displayed on packaging and randomly distributed “in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer” to, and approved by, FDA. (15 U.S.C. 4402(b)(3)(A)). Those labels must be rotated quarterly in advertisements for each brand of smokeless tobacco product, also “in accordance with a plan” and subject to approval by FDA. (15 U.S.C. 4402(b)(3)(A)). Similarly, all cigar packages and advertisements bear one of six required warning statements, which must be displayed on packaging and advertising for each brand of cigars “in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer” to, and approved by, FDA. (21 CFR 1143.5).

To implement statutory requirements for smokeless tobacco products, warning plans are reviewed by FDA, upon submission by respondents. (21 U.S.C. 4402(b)(3)(C)). FDA published a draft guidance entitled “Submission of Warning Plans for Cigarettes and Smokeless Tobacco Products” on September 9, 2011, which describes the information and format to be submitted for smokeless plans (<https://www.fda.gov/regulatory-information/search-fda-guidance-documents/>

submission-warning-plans-cigarettes-and-smokeless-tobacco-products). Submitters may also visit a web page that describes the smokeless tobacco labeling and warning statement requirements (<https://www.fda.gov/tobacco-products/labeling-and-warning-statements-tobacco-products/smokeless-tobacco-labeling-and-warning-statement-requirements>). Additionally, FDA considers a submission to be a supplement if the submitter is seeking approval of a change to an FDA-approved warning plan. Warning plans can be submitted either electronically or in paper format. The Center for Tobacco Products (CTP) Portal, available at <https://ctpportal.fda.gov/ctpportal/login.jsp>, provides a secure online system for electronically submitting documents and receiving messages from CTP.

FDA published a draft guidance for cigar warning plans entitled “Submission of Warning Plans for Cigars” in August of 2018, which describes the information and format to be submitted for cigar plans (<https://www.fda.gov/regulatory-information/search-fda-guidance-documents/compliance-policy-certain-labeling-and-warning-statement-requirements-cigars-and-pipe-tobacco>). However, the U.S. District Court for the District of Columbia issued an order vacating the health warning requirements for cigars and pipe tobacco set forth in 21 CFR 1143.3 and 1143.5 (§§ 1143.3 and 1143.5) and remanding the Final Deeming Rule’s warning requirements for cigars and pipe tobacco back to the Agency. See Order, *Cigar Ass’n of Am. v. U.S. Food and Drug Admin.*, No. 1:16–cv–01460 (D.D.C. September 11, 2020). Although the requirement has been vacated, cigar and pipe tobacco firms may choose to voluntarily comply with these health warning provisions.

Based on FDA’s experience over the years, FDA retains the estimate of 60 hours to complete an original rotational warning plan. FDA estimates that preparing and submitting a supplement to an approved plan will take half this time (30 hours).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Submission of original rotational plans for health warning statements for smokeless tobacco products	1	1	1	60	60
Supplement to approved plan for smokeless tobacco products	2	1	2	30	60
21 CFR part 1143 Cigar Warning Plans	1	1	1	1	1

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹—Continued

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Total					121

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's estimated total burden for warning plans for certain tobacco products is 121 hours, since FDA is revising this collection to incorporate the burden for cigar warning plans previously received under OMB control number 0910–0768 (which covers the burden for tobacco products subject to the Federal Food, Drug, and Cosmetic Act). Based on a 2020 order vacating the health warning requirements for cigars and pipe tobacco (set forth in §§ 1143.3 and 1143.5) and remanding the Final Deeming Rule's warning requirements for cigars and pipe tobacco, FDA has replaced the burden previously attributed to this activity with a placeholder of 1 hour, acknowledging that the regulation remains effective.

In regard to smokeless tobacco warning plans, FDA estimates a total of one respondent will submit a new original smokeless tobacco warning plan per year, which will take approximately 60 hours to complete, for a total of 60 burden hours. Additionally, FDA estimates a total of two respondents will submit a supplement to an approved smokeless tobacco warning plan, taking approximately 30 hours to complete per response, for a total of 60 burden hours. Thus, the total burden for the collection for smokeless tobacco warning plans is estimated to be 120 hours.

FDA has adjusted its burden estimate, which has resulted in a decrease of 60 hours and 2 respondents to the currently approved burden. This adjusted burden estimate is based on historical trends for smokeless tobacco warning plans. To date, FDA has received a total of 47 original smokeless warning plans, and a total of 33 supplements. However, from 2022–2024, FDA only received one original smokeless tobacco warning plan and a total of two supplements. Generally, after receiving the initial influx of original smokeless warnings plans, the number of annual warning plan submissions has decreased, and FDA does not expect submissions to increase at this time.

Dated: June 26, 2025.

Grace R. Graham,
*Deputy Commissioner for Policy, Legislation,
and International Affairs.*

[FR Doc. 2025–12413 Filed 7–2–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–0308]

Agency Information Collection Activities; Proposed Collection; Comment Request; Emerging Drug Safety Technology Meeting Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Emerging Drug Safety Technology Meeting (EDSTM) Program.

DATES: Either electronic or written comments on the collection of information must be submitted by September 2, 2025.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 2, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2025–N–0308 for “Emerging Drug Safety Technology Meeting Program.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential

information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests

or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Emerging Drug Safety Technology Meeting Program

OMB Control Number—New

The pharmaceutical industry is expanding its use of artificial intelligence (AI) and other emerging technologies across the drug product lifecycle. FDA is interested in accelerating its understanding of the research, development, and use of AI and other emerging technologies in the area of pharmacovigilance, including their performance characteristics. The EDSTM program is a means by which applicants and other relevant parties who meet the eligibility and selection criteria for participation, can meet with the Center for Drug Evaluation and Research (CDER) to share information about their use of AI and other emerging technologies, and its potential application in pharmacovigilance (PV).

The initial phase of the EDSTM program was announced in the **Federal Register** on June 11, 2024 (89 FR 49179). CDER has received several meeting requests and inquiries from the pharmaceutical industry and other

relevant parties, eager to share their latest applications of AI in PV. The requests represent a diverse set of AI use cases that are of interest to the Agency. Given the current level of interest in the program expressed by respondents, FDA anticipates an increase in the number of meetings granted to expand the Agency's understanding of how AI-enabled tools and other emerging technologies are being used for pharmacovigilance.

The goal of the EDSTM program is to facilitate mutual learning and discussion on the opportunities and challenges with using emerging technologies in PV. If selected for a meeting, application holders and/or other relevant parties will meet with CDER staff to discuss their research, development, and/or use of AI and other emerging technologies in PV. FDA plans to leverage these learnings to help inform potential regulatory and policy approaches relating to the use of AI and other emerging technologies in PV. EDSTMs will collect information for the following purposes: (1) serve as the central point of contact for dialogue between industry and CDER on the use of AI and other emerging technologies in PV; (2) enable knowledge management and transfer within FDA specific to the context of use for AI or other emerging technologies in PV; and (3) further thinking about policy and application of potential regulatory approaches within the landscape of AI and other emerging technologies.

Respondents include select applicants (applicant) with an approved new drug application or biologics license application and/or other relevant parties supporting industry's PV activities (*e.g.*, academia, contract research organizations (CROs), PV vendors, software developers). Respondents will provide an initial submission to FDA detailing their meeting proposal. We estimate this will require 10 hours to prepare. If selected for participation in the EDSTM, the respondent will need to prepare and deliver a 20-50 minute presentation, which will require an additional burden of 30 hours. FDA estimates 25 organizations will submit requests to present at EDSTMs per year, and a total of 12 meetings will be held per year.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Industry request to give presentation at EDSTM	25	1	25	10	250
Industry preparing and delivering presentation to EDSTM after the request has been granted	12	1	12	30	360
Total	25	.....	37	.....	610

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 26, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–12418 Filed 7–2–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2023–N–5451, FDA–2024–N–2177, FDA–2024–N–3379, FDA–2021–N–1333]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT:

Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and

expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the internet at <https://www.reginfo.gov/public/do/PRAMain>. 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.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
Prescription Drug Marketing: Administrative Procedures, Policies, and Requirements	0910–0435	2/29/2028
Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls For Human Food and Food for Animals	0910–0751	2/29/2028
Laboratory Accreditation for Analyses of Foods	0910–0898	2/29/2028
Current Good Manufacturing Practice, Certification, Postmarketing Safety Reporting, and Labeling Requirements for Certain Medical Gases	0910–0906	2/29/2028

Dated: June 26, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–12415 Filed 7–2–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–0348]

Agency Information Collection Activities; Proposed Collection; Comment Request; Center for Devices and Radiological Health Appeals Processes

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency.

Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collections associated with the Center for Devices and Radiological Health Appeals Processes.

DATES: Either electronic or written comments on the collection of information must be submitted by September 2, 2025.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be

considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 2, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2025-N-0348 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Center for Devices and Radiological Health Appeals Processes." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at

<https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-5733, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the

public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Center for Devices and Radiological Health Appeals Processes

OMB Control Number 0910-0738—Extension

This information collection supports implementation of recommendations found in FDA guidance. As discussed in the document entitled "Guidance for Industry and Food and Drug Administration Staff; Center for Devices and Radiological Health (CDRH) Appeals Processes" (March 2022), there are various processes by which appeals requests regarding review of decisions or actions by CDRH may be submitted to the Agency. The guidance is available for download from our website at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/center-devices-and-radiological-health-cdrh-appeals-processes>. The guidance document provides general format and content recommendations in this regard, discusses applicable regulations with regard to the timing of such submissions, and describes the collection of information not expressly specified under existing regulations such as the submission of the request for review, minor clarifications as part of the request, and supporting information. While CDRH already possesses in the

administrative file the information that would form the basis of a decision on a matter under appeal, the submission of information as recommended in the guidance regarding the appeal request itself, as well as data and information relied on by the requestor in the appeal, will help facilitate timely resolution of the decision under review. We are accounting for burden respondents may

incur as a result of these Agency recommendations in this collection request. Additional information about the CDRH appeals process is described in the companion guidance entitled “Center for Devices and Radiological Health (CDRH) Appeals Processes: Questions and Answers About 517A—Guidance for Industry and Food and Drug Administration Staff” (March

2020), also available for download from our website at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/center-devices-and-radiological-health-cdrh-appeals-processes-questions-and-answers-about-517a>.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
CDRH Appeals Processes	75	1	75	8	504

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase of 320 hours and a corresponding increase of 40 responses/records. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Dated: June 26, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–12419 Filed 7–2–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–0615]

Agency Information Collection Activities; Proposed Collection; Comment Request; Generic Clearance for Quick Turnaround Testing of Communication Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection entitled “Generic Clearance

for Quick Turnaround Testing of Communication Effectiveness.”

DATES: Either electronic or written comments on the collection of information must be submitted by September 2, 2025.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 2, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the

manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2025–N–0615 for “Agency Information Collection Activities; Proposed Collection; Comment Request; Generic Clearance for Quick Turnaround Testing of Communication Effectiveness.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The

second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-5733, PRABranch@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information

is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Generic Clearance for Quick Turnaround Testing of Communication Effectiveness

OMB Control Number 0910-0876—Extension

The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111-353) enables FDA to better protect public health by helping to ensure the safety and security of the food supply. It enables FDA to focus more on preventing food safety problems rather than relying primarily on reacting to problems after they occur. FSMA recognizes the important role consumers and stakeholders play in ensuring the safety of the food supply, which helps ensure that suppliers produce food that meets U.S. safety standards. Section 1003(d)(2) of the FD&C Act (21 U.S.C. 393(d)(2)) authorizes FDA to conduct food research and educational and public information programs relating to the safety of the nation's food supply.

This notice requests extension of OMB approval of the FDA information collection for a generic clearance that allows FDA to occasionally communicate with consumers and other stakeholders about immediate health issues which could affect public health and safety. This collection of information allows the use of fast-track methods of communication such as quick turnaround surveys, focus groups, and in-depth interviews collected from consumers and other stakeholders to communicate FDA issues of immediate and important public health significance. We plan on using these methods of communication to collect vital public health and safety information.

For example, these methods of communication might be used when there is a foodborne illness outbreak, food recall, or other situation requiring expedited FDA food, dietary supplement, infant formula, or animal food or feed communications. So that FDA may better protect the public

health, the Agency needs quick turnaround information provided by this collection of information to help ensure its messaging has reached the target audience, has been effective, and, if needed, to update its communications during these events.

FDA plans to use the data collected under this generic clearance to test consumer or other stakeholder reaction to communications, advisories, and other educational messages under development or review when there are urgent public health matters requiring the dissemination of FDA communications. The tests will allow FDA to better understand consumers' responses, including behavior, knowledge, beliefs, perceptions, and attitudes to topics and concepts included in the communications. The data will not be directly used for the purposes of making regulatory or other policy decisions.

FDA will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low burden for participants (based on considerations of total burden hours, total number of participants, or burden hours per respondent) and are low cost for both the participants and the Federal Government;
- The collections are noncontroversial;
- Personally identifiable information is collected by the contractor for their benefit only to the extent necessary, is not shared with FDA, and is not retained; and
- Information gathered will not be used for substantially informing influential policy decisions.

If these conditions are not met, FDA will submit an information collection request to OMB for approval through the normal PRA process. To obtain approval for a collection that meets the conditions of this generic clearance, an abbreviated supporting statement will be submitted to OMB along with supporting documentation (e.g., a copy of the survey, focus group or interview guide, and stimuli).

Respondents to this collection of information include a wide range of consumers and other FDA stakeholders such as producers and manufacturers of FDA-regulated food, infant formula, dietary supplements, and animal food and feed. Participation will be voluntary.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED REPORTING BURDEN ¹

Survey type	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Indepth Interviews, Cognitive Interviews Screener ..	45	1	45	0.083 (5 minutes)	4
Indepth Interviews, Cognitive Interviews	9	1	9	1	9
Indepth Interviews Screener	300	1	300	0.083 (5 minutes)	25
Indepth Interviews	60	1	60	1	60
Survey Cognitive Interviews Screener	45	1	45	0.083 (5 minutes)	4
Survey Cognitive Interviews	9	1	9	1	9
Pretest survey screener	1,500	1	1,500	0.083 (5 minutes)	124
Pretest survey	300	1	300	0.25 (15 minutes)	76
Self-Administered Surveys—Study Screener	30,000	1	30,000	0.083 (5 minutes)	2,500
Self-Administered Surveys	6,000	1	6,000	0.25 (15 minutes)	1,500
Focus Group/Small Group, Cognitive Groups Screener.	180	1	180	0.083 (5 minutes)	15
Focus Group/Small Group, Cognitive Groups	60	1	60	1.5 (90 minutes)	90
Focus Group/Small Group Participant Screening	720	1	720	0.083 (5 minutes)	60
Focus Group/Small Group Discussion	240	1	240	1.5 (90 minutes)	360
Total					4,836

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: June 26, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–12417 Filed 7–2–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2016–D–2335; FDA–2024–N–2888; FDA–2018–N–0180; FDA–2024–N–2149]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations,

Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRASaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the internet at <https://www.reginfo.gov/public/do/PRAMain>. 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.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
Food Labeling Regulations	0910–0381	4/30/2028
Substantial Equivalence Reports for Tobacco Products.	0910–0673	4/30/2028
Generic Clearance for the Collection of Quantitative Data on Tobacco Products and Communications.	0910–0810	4/30/2028
De Novo Classification Process (Evaluation of Automatic Class III Designation).	0910–0844	4/30/2028
Human Drug Compounding, Repackaging, and Related Activities Regarding Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act.	0910–0858	4/30/2028

Dated: June 26, 2025.

Grace R. Graham,

*Deputy Commissioner for Policy, Legislation,
and International Affairs.*

[FR Doc. 2025-12408 Filed 7-2-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-N-1109]

Agency Information Collection Activities; Proposed Collection; Comment Request; Administrative Procedures for Clinical Laboratory Improvement Amendments of 1988 Categorization

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with implementation of the Clinical Laboratory Improvement Amendments of 1988 (CLIA).

DATES: Either electronic or written comments on the collection of information must be submitted by September 2, 2025.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 2, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to [https://](https://www.regulations.gov)

www.regulations.gov will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. [FDA-2025-N-1109] for "Agency Information Collection Activities; Proposed Collection; Comment Request; Administrative Procedures for Clinical Laboratory Improvement Amendments of 1988 Categorization." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in

its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether

the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Administrative Procedures for Clinical Laboratory Improvement Amendments of 1988 Categorization

OMB Control Number 0910-0607—
Extension

This information collection helps support implementation of statutory provisions applicable to laboratories that conduct testing on human specimens under CLIA. These requirements are codified in 42 U.S.C. 263a and implementing regulations are found in 42 CFR 493. Regulations in 42 CFR 493.17 set forth certain notice requirements and establish test categorization criteria for laboratory tests and are implemented by FDA's Center for Devices and Radiological Health. The guidance document entitled

“Administrative Procedures for CLIA Categorization” (October 2017) (available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/administrative-procedures-clia-categorization>) describes procedures FDA uses to assign the complexity category to a device. Typically, FDA assigns complexity categorizations to devices at the time of clearance or approval of the device. In some cases, however, a manufacturer may request CLIA categorization even if FDA is not simultaneously reviewing a 510(k) or premarket approval application. One example is when a manufacturer requests that FDA assign CLIA categorization to a previously cleared device that has changed names since the original CLIA categorization. Another example is when a device is exempt from premarket review. In such cases, the guidance recommends that manufacturers provide FDA with a copy of the package insert for the device and a cover letter indicating why the manufacturer is requesting a categorization (e.g., name change, exempt from 510(k) review). The guidance recommends that in the correspondence to FDA the manufacturer should identify the product code and classification as well as reference to the original 510(k) when this is available.

In addition, this information collection includes provisions

associated with certificates of waiver. The guidance document entitled “Recommendations for Clinical Laboratory Improvement Amendments of 1988 (CLIA) Waiver Applications for Manufacturers of In Vitro Diagnostic Devices—Guidance for Industry and FDA Staff” (February 2020) (available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/recommendations-clinical-laboratory-improvement-amendments-1988-clia-waiver-applications>) describes recommendations for device manufacturers submitting to FDA an application for determination that a cleared or approved device meets this CLIA standard (CLIA waiver application). The guidance recommends that CLIA waiver applications include a description of the features of the device that make it “simple”; a report describing a hazard analysis that identifies potential sources of error, including a summary of the design and results of flex studies and conclusions drawn from the flex studies; a description of fail-safe and failure alert mechanisms and a description of the studies validating these mechanisms; a description of clinical tests that demonstrate the accuracy of the test in the hands of intended operators; and statistical analyses of clinical study results.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Total operating and maintenance costs
Request for CLIA Categorization	86	5	430	1	430	\$2,150
CLIA Waiver Application Submissions	20	1	20	1,200	24,000	540,000
Total					24,430	542,150

¹ There are no capital costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

Information collection activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
CLIA Waiver Recordkeeping as discussed in FDA Guidance	20	1	20	2,800	56,000

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates an increase of 30 responses for requests for CLIA categorization and 7 responses for waiver application submission based on recent FDA receipt data to more accurately reflect recent receipts of

requests for CLIA categorization and CLIA waiver application submissions. Our total burden for this collection will be 80,430 hours (24,430 reporting + 56,000 recordkeeping). Our estimated burden for the information collection

reflects an overall increase of 28,030 hours and a corresponding increase of \$190,150 total operating and maintenance costs.

Dated: June 26, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025-12412 Filed 7-2-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-N-1731]

General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting; Establishment of Public Docket; Request for Comments—Dermal Fillers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee (the Committee). The general function of the Committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on August 13, 2025, from 9 a.m. to 3:30 p.m. Eastern Time.

ADDRESSES: Please note that all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA-2025-N-1731. The docket will close on September 13, 2025. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 13, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before July 23, 2025, will be provided to the Committee. Comments received after

that date will be taken into consideration by FDA. In the event the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2025-N-1731 for "General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at

<https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information, be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

Evella Washington, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2404, Silver Spring, MD 20993-0002, Evella.Washington@fda.hhs.gov, 301-796-6683, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572) in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at <https://www.regulations.gov>

www.fda.gov/AdvisoryCommittees/default.htm and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On August 13, 2025, the Committee will discuss a new indication for use for dermal filler devices in the décolletage area and will make recommendations regarding risks associated with new indications for use such as in the décolletage area, the potential impact of filler material on imaging studies and clinical exams (e.g., breast cancer screening), pre-market and post-market study assessments for benefit and risk, removal of dermal filler implant material, and patient preference.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material and the link to the online teleconference and/or video conferencing meeting will be available at the location of the advisory committee meeting and at <https://www.fda.gov/AdvisoryCommittees/Calendar/default.html>. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. All electronic and written submissions to the Docket (see **ADDRESSES**) on or before July 23, 2025, will be provided to the Committee. Oral presentations from the public will be scheduled on August 13, 2025, between approximately 11:30 a.m. and 12:30 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 14, 2025. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the

speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 15, 2025.

For press inquiries, please contact the HHS Press Room at www.hhs.gov/press-room/index.html or 202-690-6343. FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at: <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*). This meeting notice also serves as notice that, pursuant to 21 CFR 10.19, the requirements in 21 CFR 14.22(b), (f), and (g) relating to the location of advisory committee meetings are hereby waived to allow for this meeting to take place using an online meeting platform. This waiver is in the interest of allowing greater transparency and opportunities for public participation, in addition to convenience for advisory committee members, speakers, and guest speakers. No participant will be prejudiced by this waiver, and that the ends of justice will be served by allowing for this modification to FDA's advisory committee meeting procedures.

Dated: June 27, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025-12421 Filed 7-2-25; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: The Development of an *in vivo* Anti-CD19 Chimeric Antigen Receptor (CAR) for the Treatment or Prevention of B Cell Mediated Autoimmune Diseases

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, 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 applications listed in the Supplementary Information section of this notice to Capstan Therapeutics, Inc. (Capstan), a company located in San

Diego, California, the United States of America.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before July 18, 2025 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: Abritee Dhal, Ph.D., Senior Technology Transfer Manager, NCI Technology Transfer Center, Telephone: (240)-276-6154; Email: abritee.dhal@nih.gov.

SUPPLEMENTARY INFORMATION:

Intellectual Property

1. U.S. Provisional Patent Application 62/006,313 (HHS Reference E-042-2014-0-US-01), filed 2 June 2014;
2. PCT Application PCT/US2015/033473 (HHS Reference E-042-2014-0-PCT-02), filed 1 June 2015;
3. Australian Patent 2015270912 (HHS Reference E-042-2014-0-AU-03), issued 17 December 2020;
4. Canadian Patent Application 2951045 (HHS Reference E-042-2014-0-CA-04), filed 1 June 2015;
5. Chinese Patent ZL201580033802.5 (HHS Reference E-042-2014-0-CN-05), issued 31 August 2021;
6. European Patent 3149044 (HHS Reference E-042-2014-0-EP-06), issued 21 October 2020 and validated in the following jurisdictions:
 - a. Germany (HHS Reference E-042-2014-0-DE-19);
 - b. Spain (HHS Reference E-042-2014-0-ES-20);
 - c. France (HHS Reference E-042-2014-0-FR-21);
 - d. The United Kingdom (HHS Reference E-042-2014-0-GB-22);
 - e. Italy (HHS Reference E-042-2014-0-IT-23); and
 - f. Ireland (HHS Reference E-042-2014-0-IE-24);
7. Israeli Patent 249305 (HHS Reference E-042-2014-0-IL-07), issued 1 October 2021;
8. Indian Patent 406961 (HHS Reference E-042-2014-0-IN-08), filed 19 May 2022;
9. Japanese Patent 6797693 (HHS Reference E-042-2014-0-JP-09), issued 20 November 2020;
10. South Korean Patent 2016-7036828 (HHS Reference E-042-2014-0-KR-10), issued 20 May 2024;
11. Mexican Patent 383150 (HHS Reference E-042-2014-0-MX-11), issued 3 June 2021;
12. New Zealand Patent 727167 (HHS Reference E-042-2014-0-NZ-12), issued 8 October 2024;

13. Saudi Arabian Patent 8651 (HHS Reference E-042-2014-0-SA-13), issued 15 September 2021;

14. Singapore Patent 11201609960Q (HHS Reference E-042-2014-0-SG-14), issued 28 September 2021;

15. United States Patent 10,287,350 (HHS Reference E-042-2014-0-US-15), issued 14 May 2019;

16. Hong Kong Patent HK 1234420 (HHS Reference E-042-2014-0-HK-16), issued 4 June 2021;

17. United States Patent 11,236,161 (HHS Reference E-042-2014-0-US-17), issued 1 February 2022;

18. New Zealand Patent 764530 (HHS Reference E-042-2014-0-NZ-18), issued 8 October 2024;

19. European Patent Application 20197459.9 (HHS Reference E-042-2014-0-EP-25), filed 22 September 2020;

20. Australian Patent 2020267211 (HHS Reference E-042-2014-0-AU-26), issued 15 August 2024;

21. Japanese Patent 7004470 (HHS Reference E-042-2014-0-JP-27), issued 6 January 2022;

22. Mexican Patent Application MX/a/2021/006239 (HHS Reference E-042-2014-0-MX-28), filed 27 May 2021;

23. Israeli Patent 283423 (HHS Reference E-042-2014-0-IL-29), issued 2 July 2022;

24. Hong Kong Patent Application 42021038427.7 (HHS Reference E-042-2014-0-HK-30), filed 8 September 2021;

25. United States Patent Application 17/557,845 (HHS Reference E-042-2014-0-US-31), filed 21 December 2021;

26. Japanese Patent 7485650 (HHS Reference E-042-2014-0-JP-32), issued 6 January 2022;

27. United States Patent Application 17/696,249 (HHS Reference E-042-2014-0-US-33), filed 16 March 2022;

28. Israeli Patent Application 291292 (HHS Reference E-042-2014-0-IL-34), filed 13 March 2022;

29. Indian Patent Application 202248047256 (HHS Reference E-042-2014-0-IN-35), filed 19 August 2022;

30. South Korean Patent Application 10-2024-7016401 (HHS Reference E-042-2014-0-KR-01), filed 17 May 2024;

31. Japanese Patent Application 2024-074954 (HHS Reference E-042-2014-0-JP-01), filed 2 May 2024; and

32. Australian Patent Application 2024205043 (HHS Reference E-042-2014-0-AU-01), filed 24 July 2024.

The patent rights in these inventions have been assigned to the Government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the following:

“The commercial development, production, and sale of a T cell-directed, non-viral, synthetic nanoparticle-based system comprised of lipids, polymers and/or lipopolymers that encapsulates an mRNA that encodes a chimeric antigen receptor (CAR) that binds to CD19 via the CDR polypeptide sequences of the anti-CD19 antibody known as Hu19, for the treatment or prevention of B cell mediated autoimmune diseases.

The following are specifically excluded from the Licensed Field of Use:

(1) anti-CD19 targeting CAR-based immunotherapy using CRISPR/Cas9-edited allogeneic (where donor and recipient are different) T lymphocytes.

(2) the development of CAR-expressing cells generated ex vivo (both autologous and allogeneic cell therapies).

(3) viral-based nucleic acid systems or viral vectors to express the CAR.”

This technology discloses the development of chimeric antigen receptors that recognize the CD19 cell surface protein. CD19 is expressed primarily on B cells, including autoreactive B cells which drive the development of autoimmune disorders such as System Lupus Erythematosus, Immune-mediated myositis, and Antisynthetase Syndrome. For many autoimmune diseases there are no FDA-approved therapies, underscoring that there is an unmet need. The development of a new anti-CD19 CAR-based therapy can potentially meet the needs of patients that currently do not have any treatment options.

The scope of exclusivity for this license will be limited to the development of a specific class of molecules (CARs) which use a specific binding domain (Hu19), wherein the CARs are transfected via a specific methodology (non-viral transfection, *in vivo*) into specific types of cells (T cells). The scope is further limited for autoimmune diseases. Other fields of use will still be available if this license is granted, including use of Natural Killer cells instead of T cells to express the CAR product.

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 Cancer Institute 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.

Complete applications for a license that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license. 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 in 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: June 30, 2025.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2025-12409 Filed 7-2-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM).

SACATM is a federally chartered external advisory group of scientists from the public and private sectors, including representatives of regulated industry and national animal protection organizations. SACATM advises the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM), and the Director of the National Institute of Environmental Health Sciences (NIEHS) and NTP regarding statutorily mandated duties of ICCVAM and activities of NICEATM.

This meeting will be held as a virtual meeting and open to the public. Individuals who plan to view the virtual meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below. TTY users should contact the Federal TTY Relay Service at 800-877-8339. All requests should be made at

least five business days in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: <https://videocast.nih.gov/>.

Name of Committee: Scientific Advisory Committee on Alternative Toxicological Methods (SACATM).

Date: September 11–12, 2025.

Registration is required to attend to view the webcast, and/or present oral comments. Written public comments will be accepted. Information about the meeting, registration, and how to submit public comments are available at <https://ntp.niehs.nih.gov/go/32822>.

Time: 10:00 a.m. to approximately 3:15 p.m. Eastern Time (each meeting day)

Agenda: The preliminary agenda, registration, and other meeting materials will be available at <https://ntp.niehs.nih.gov/go/32822>.

Address: NIEHS Research Triangle Park, NC 27709 (Virtual Meeting).

Meeting Format: Virtual Meeting.

Contact Person: Mary S. Wolfe, Ph.D., Director, Office of Policy, Review, and Outreach, Division of Translational Toxicology, National Institute of Environmental Health Science, National Institutes of Health PO Box 12233, MD A3–01 111 T.W. Alexander Dr, Research Park Triangle, NC 27709, wolfe@niehs.nih.gov.

Any member of the public interested in presenting oral comments may register at <https://ntp.niehs.nih.gov/go/32822>. Each public comment period allows for five oral commenters. Only one representative of an organization may be allowed to present oral comments per comment period and if accepted by the committee, presentations are limited to five minutes. Registration is on a first-come, first-served basis. If the maximum number of commenters per comment period is exceeded, individuals registering to submit an oral comment will be placed on a wait list and notified should an opening become available.

In addition, any interested person may file written comments with the committee. Information on submitting written comment is available at <https://ntp.niehs.nih.gov/go/32822>.

Responses to this notice are voluntary. No proprietary, classified, confidential, or sensitive information should be included in statements submitted in response to this notice or presented during the meeting. This request for input is for planning purposes only and is not a solicitation for applications or an obligation on the part of the U.S. Government to provide support for any ideas identified in

response to the request. Please note that the U.S. Government will not pay for the preparation of any information submitted or for its use of that information.

Additional information about SACATM, including link to the charter, roster, and records of past meetings, can be found at <https://ntp.niehs.nih.gov/go/advisory>.

Dated: July 1, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–12480 Filed 7–2–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT:

Brian Bailey at 240–669–5128, or bbailey@mail.nih.gov. Licensing information may be obtained by communicating with the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished information related to the invention.

SUPPLEMENTARY INFORMATION:

Technology description follows:

Anti-Nucleoprotein Crimean-Congo Hemorrhagic Fever Virus Monoclonal Antibodies for Assay Creation

Description of Technology

Crimean-Congo hemorrhagic fever (CCHF) is the most widespread form of viral hemorrhagic fever, found in Eastern and Southern Europe, the Mediterranean, northwestern China, central Asia, Africa, the Middle East, and the Indian subcontinent. Typically beginning with non-specific fever,

myalgia, nausea, diarrhea, and general malaise, symptoms of infection with the tick-borne CCHF virus (CCHFV) can rapidly progress to hemorrhagic manifestations, with case fatality rates as high as 30–40% in some regions. Critically, there are no approved vaccines for CCHF, and prevention is limited to control of exposure to infected ticks and livestock.

Researchers at the Vaccine Research Center (VRC) of the National Institute of Allergy and Infectious Disease (NIAID) have recently demonstrated robust immunogenicity and significant protection in a Rhesus macaque model of CCHF following vaccination with a novel repRNA vaccine. Single memory B cells from peripheral blood mononuclear cells (PBMCs) were isolated from the vaccinated macaques to derive monoclonal antibodies that target the nucleocapsid protein (NP) of CCHFV, which plays a critical role in the replication and pathogenesis of the virus. This technology comprises mAbs with strong potential for the development of diagnostic tools, *in vitro* assays, research reagents, and other analytical methods for CCHFV NP recognition.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404.

Potential Commercial Applications:

- Development of diagnostic assays for rapid, accurate CCHFV detection in clinical and non-clinical settings.

Competitive Advantages:

- There are no readily available antibodies that bind to the NP protein of CCHFV.

Development Stage:

Relevant Publications: Hawman DW, et al. A replicating RNA vaccine confers protection in a rhesus macaque model of Crimean-Congo hemorrhagic fever. *NPJ Vaccines* 2024;9:86. <https://doi.org/10.1038/s41541-024-00887-z>.

Inventors: Daniel Douek, David Hawman, Leonid Serebryannyy, Noemia Santana Lima, Chaim Schramm, Sarah Smith (Kerscher), Amy Henry, Alicen Spaulding (all of NIAID)

Intellectual Property: HHS Reference No. E–129–2025.

Licensing Contact: To license this technology, please contact Brian Bailey at 240–669–5128, or bbailey@mail.nih.gov, and reference E–129–2025.

Dated: June 30, 2025.

Surekha Vathyam,

Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2025–12455 Filed 7–2–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Intertek USA, Inc. (Baytown, TX) as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.
ACTION: Notice of approval of Intertek USA, Inc. (Baytown, TX) as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (Baytown, TX), has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of April 18, 2024.
DATES: Intertek USA, Inc. (Baytown, TX) was approved as a commercial gauger as of April 18, 2024. The next triennial inspection date will be scheduled for April 2027.
FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW, Suite 1501–A North, Washington, DC 20004, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Intertek USA, Inc., 2612 West Main St., Baytown, TX 77520, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Intertek USA, Inc. (Baytown, TX) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculation of Petroleum Quantities.
17	Marine Measurement.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to

CBPGaugersLabs@cbp.dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Lina M. Acosta,
Acting Laboratory Director, Houston Laboratories and Scientific Services.
[FR Doc. 2025–12473 Filed 7–2–25; 8:45 am]
BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.
ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of Texas.
DATES: This determination takes effect on July 3, 2025.
SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (“DHS”) include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation’s national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined “operational control” as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President’s Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).
Congress has provided to the Secretary of Homeland Security a

number of authorities necessary to carry out DHS’s border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (“IIRIRA”). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol Rio Grande Valley Sector is an area of high illegal entry. In fiscal year 2024, the United States Border Patrol (“Border Patrol”) apprehended over 135,000 illegal aliens attempting to enter the United States between border crossings in the Rio Grande Valley Sector. In that same time period, Border Patrol seized over 23,400 pounds of marijuana, over 1,230 pounds of cocaine, and over 10 pounds of heroin.
Owing to the high levels of illegal entry within the Rio Grande Valley Sector, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the Rio Grande Valley Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in a segment of the border in the Rio Grande Valley Sector. The segment where such construction will occur is referred to herein as the “project area,” which is

more specifically described in Section 2 below.

Section 2

I determine that the following area in the vicinity of the United States border, located in the State of Texas within the U. S. Border Patrol Rio Grande Valley Sector, is an area of high illegal entry (the “project area”):

- Starting at a point that is on the United States’ side of the Rio Grande River which point is located approximately eight-tenths (0.8) of a mile west of the intersection of Palm Boulevard and Mexico Boulevard near Brownsville, Texas, and following the Rio Grande River on the United States’ side of the border for approximately 20 miles.

There is presently an acute and immediate need to construct additional physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project area pursuant to section 102(a) of IIRIRA. In order to ensure the expeditious construction of additional physical barriers and roads in the project area, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, drainage and erosion control, and installation and upkeep of physical barriers and roads) in the project area, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.*, now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*);

the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the National Trails System Act (16 U.S.C. 1241 *et seq.*), the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.*, now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.* and 16 U.S.C. 431a *et seq.*, now codified 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.*, now codified at 54 U.S.C. 320301–320303 & 320101–320106); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); Section 438 of the Energy Independence and Security Act (42 U.S.C. 17094); the National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*)); the Wild and Scenic Rivers Act (Pub. L. 90–542 (16 U.S.C. 1281 *et seq.*)); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the National Wildlife Refuge System Administration Act (Pub. L. 89–669 (16 U.S.C. 668dd–668ee)); the National Wildlife Refuge System Improvement Act of 1997 (Pub. L. 105–57); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Rivers and Harbors Act of 1899 (33 U.S.C. 403 *et seq.*); the Coastal Zone Management Act (Pub. L. 92–583 (16 U.S.C. 1451 *et seq.*)); the Federal Insecticide, Fungicide, and Rodenticide Act, (16 U.S.C. 136–136y); and the Marine Mammal Protection (16 U.S.C. 1361–1421h).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to

be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–11755 Filed 7–2–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0025]

Proposed Extension of Information Collection: Applications for Permits To Fire More than 20 Boreholes and for Use of Nonpermissible Blasting Units, Explosives, and Shot-Firing Units; and Posting Notices of Misfires

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program for all information collections, to provide the public and Federal agencies with an opportunity to comment on proposed 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. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection titled “Applications for Permits to Fire More than 20 Boreholes and For Use of Nonpermissible Blasting Units, Explosives, and Shot-firing Units; and Posting Notices of Misfires”.

DATES: All comments must be received on or before September 2, 2025.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

- **Federal E-Rulemaking Portal:** <https://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA–2025–0035.

- **Mail/Hand Delivery:** DOL–MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person,

call 202-693-9455 to make an appointment.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Jessica Senk, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693-9440 (voice); or (202) 693-9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal and nonmetal mines.

The Paperwork Reduction Act of 1995 (PRA) governs paperwork burdens imposed by Federal agencies on the public for using identical questions to collect information from 10 or more persons. The PRA defines paperwork burden in 44 U.S.C. 3502(2) as time, effort, or financial resources expended to generate, maintain, or provide information to or for a Federal agency. Under 44 U.S.C. 3507, the PRA also establishes policies and procedures of information collection for controlling paperwork burdens imposed by Federal agencies on the public, including evaluating public comments.

B. Information Collection

To fulfill the statutory mandates to promote miners' health and safety, MSHA requires information collected under the information collection request (ICR) titled "Applications for Permits to Fire more than 20 Boreholes and for Use of Nonpermissible Blasting Units, Explosives, and Shot-Firing Units; and Posting Notices of Misfires." The information collection is intended to provide necessary information for MSHA to issue permits to mine operators for firing of more than 20 boreholes in a round, for the use of nonpermissible explosives and shot-

firing units, and for necessary posting of misfire notices. The permits inform mine management and miners of the steps that need to be taken to protect the safety of any person exposed to such blasting while using nonpermissible items.

Under section 313 of the Mine Act, 30 U.S.C. 873, any explosives used in underground coal mines must be permissible. The Mine Act also provides that under safeguards as the Secretary may prescribe, the Secretary may permit mine operators to fire more than 20 shots and allow the use of nonpermissible explosives and shot-firing units in sinking shafts and slopes from the surface in rock. In the case of a misfire, mines must post notices at the entrance of the areas where the misfire occurred.

Burden costs associated with the ICR include:

1. Applying for permits to fire more than 20 boreholes or for use of nonpermissible blasting units, explosives, and shot-firing units; and
2. Posting of misfire notices.

Details of the authorities for these costs are described below.

1. Applying for Permits for Firing More Than 20 Boreholes and for Use of Nonpermissible Blasting Units, Explosives, and Shot-Firing Units

Under 30 CFR 75.1321(a), applications for permits for firing more than 20 boreholes in a round and for the use of nonpermissible blasting units must be submitted, by the mine operator, in writing to the District Manager for the district in which the mine is located and must contain the following information:

- (1) The name and address of the mine;
- (2) The active workings in the mine affected by the permit and the approximate number of boreholes to be fired;
- (3) The period of time during which the permit will apply;
- (4) The nature of the development or construction for which they will be used, *e.g.*, overcasts, undercasts, track grading, roof brushing or boom holes;
- (5) A plan, proposed by the mine operator designed to protect miners in the mine from the hazards of methane and other explosive gases during each multiple shot, *e.g.*, changes in the mine ventilation system, provisions for auxiliary ventilation and any other safeguards necessary to minimize such hazards;
- (6) A statement of the specific hazards anticipated by the mine operator in blasting for overcasts, undercasts, track grading, brushing of roof, boom holes or

other unusual blasting situations such as coalbeds of abnormal thickness; and

(7) The method to be employed to avoid the dangers anticipated during development or construction which will ensure the protection of life and the prevention of injuries to the miners exposed to such underground blasting.

Under 30 CFR 75.1321(b), District Managers may permit the firing of more than 20 boreholes of permissible explosives in a round where they have determined that it is necessary to reduce the overall hazard to which miners are exposed during underground blasting. The District Managers may also permit the use of nonpermissible blasting units if they find that a permissible blasting unit does not have adequate blasting capacity and that the use of such permissible units will create development or construction hazards such as: exposure to disturbed roof in an adjacent cavity while scaling and supporting the remaining roof prior to wiring a new series of boreholes; exposure to underburden boreholes where prior rounds have removed the burden adjacent to a remaining borehole; exposure to an unsupported roof while redrilling large fragmented roof rock following the loss of predrilled boreholes during earlier blasting operations; or any other hazard created by the use of permissible blasting units during underground development or construction.

Under 30 CFR 75.1321(c), permits must be issued on a mine-by-mine basis for periods of time to be specified by the District Manager.

Under 30 CFR 75.1321(d), permits must specify and include as a condition of their use, any safeguards, in addition to those proposed by the mine operator, which the District Manager issuing such permits has determined will be required to ensure the welfare of the miners employed in the mine at the time of the blasting permitted.

Under 30 CFR 77.1909-1, where the District Manager has determined that the use of nonpermissible explosives and nonpermissible shot-firing units will not pose a hazard to any person during the development of a slope or shaft, the District Manager may, after written application by the operator, approve the use of such explosives and shot-firing units and issue a permit for the use of such explosives and devices setting forth the safeguards to be employed by the operator to protect the health and safety of any person exposed to such blasting.

2. Posting of Misfire Notices

Under 30 CFR 75.1327(a), when misfires occur, mine operators must

ensure that only work by a qualified person to dispose of misfires and other work necessary to protect persons must be done in the affected area.

Under 30 CFR 75.1327(b), when a misfire cannot be disposed of, mine operators must ensure that:

(1) A qualified person must post each accessible entrance to the area affected by the hazard of the misfire with a warning at a conspicuous location to prohibit entry; and

(2) The misfire must be immediately reported to mine management.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection titled “Applications for Permits to Fire More than 20 Boreholes and For Use of Nonpermissible Blasting Units, Explosives, and Shot-firing Units; and Posting Notices of Misfires”. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA’s estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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 submission of responses.

The ICR will be available on <https://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9455 to make an appointment.

Questions about the ICR may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This ICR concerns provisions for Applications for Permits to Fire More than 20 Boreholes and For Use of Nonpermissible Blasting Units, Explosives, and Shot-firing Units; and Posting Notices of Misfires. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this ICR from the previous ICR.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0025.

Affected Public: Business or other for-profit.

Number of Annual Respondents: 33.

Frequency: Annually.

Number of Annual Responses: 34.

Annual Time Burden: 33 hours.

Annual Other Burden Costs: \$170.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed ICR; they will become a matter of public record and be available at <https://www.reginfo.gov>.

Jessica Senk,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2025–12436 Filed 7–2–25; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0147]

Proposed Extension of Information Collection: Coal Mine Dust Sampling Devices

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program for all information collections, to provide the public and Federal agencies with an opportunity to comment on proposed 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. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection titled “Coal Mine Dust Sampling Devices.”

DATES: All comments must be received on or before September 2, 2025.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

• *Federal E-Rulemaking Portal:* <https://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA–2025–0052.

• *Mail/Hand Delivery:* DOL–MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9455 to make an appointment.

• MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Jessica Senk, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal and nonmetal mines.

The Paperwork Reduction Act of 1995 (PRA) governs paperwork burdens imposed by Federal agencies on the public for using identical questions to collect information from 10 or more persons. The PRA defines paperwork burden is defined in 44 U.S.C. 3502(2) as time, effort, or financial resources expended to generate, maintain, or

provide information to or for a Federal agency. Under 44 U.S.C. 3507, the PRA also establishes policies and procedures of information collection for controlling paperwork burdens imposed by Federal agencies on the public, including evaluating public comments.

B. Information Collection

To fulfill the statutory mandates to promote miners' health and safety, MSHA requires the information under the ICR titled "Coal Mine Dust Sampling Devices." The information collection is intended to determine if coal mine dust sampling devices meet established safety criteria for use in coal mines.

Coal mine sampling devices include continuous personal dust monitors (CPDMs) and coal mine dust personal sampler units (CMDPSUs). CPDMs and CMDPSUs measure the concentration of respirable dust in coal mines. These devices must be designed and constructed for coal miners to wear and operate without impeding their ability to perform work safely and effectively. They must be durable to perform reliably in the normal working conditions of coal mines.

Under 30 CFR part 74, the requirements for approval of coal mine dust sampling devices are set forth for determining the concentrations of respirable dust in coal mine atmospheres. It also outlines procedures for applying for approval and testing.

Burden costs associated with the ICR include:

1. Manufacturers preparing and submitting applications for MSHA's approval of the pump unit of a CMDPSU;
2. Manufacturers preparing and submitting applications for MSHA's approval of intrinsic safety testing of a CPDM;
3. Manufacturers providing CMDPSU or CPDM devices to MSHA;
4. MSHA issuing certificates of approval or disapproval;
5. Manufacturers keeping records; and
6. Manufacturers making changes after certification.

Authorization and the associated rule text are described below.

1. Manufacturers Preparing and Submitting Applications for Pump Units of CMDPSUs

a. MSHA Testing Pump Units of CMDPSUs

Under 30 CFR 74.5(b) and 74.13(a), MSHA will conduct tests and evaluations to determine whether the pump unit of a CMDPSU that is submitted for approval complies with the applicable permissibility provisions.

b. Manufacturers Preparing and Submitting Applications for CMDPSUs

Under 30 CFR 74.13(a), the applicant must submit a written application to MSHA. Each copy of the application must be accompanied by complete scale drawings, specifications, and a description of materials. One complete pump unit of a CMDPSU must be submitted to MSHA with the application.

Under 30 CFR 74.13(c), complete drawings and specifications accompanying each copy of the application must be fully detailed to identify the design of the CMDPSU or pump unit and to disclose the dimensions and materials of all component parts.

Under 30 CFR 74.6, the applicant must describe the way in which each lot of components will be sampled and tested to maintain its quality prior to assembly of each sampler unit. In order to assure that the quality of the CMDPSU will be maintained in production through adequate quality control procedures, MSHA reserves the right to have their qualified personnel inspect each applicant's control-test equipment procedures and records and to interview the employees who conduct the control tests. Two copies of the results of any tests made by the applicant on the CMDPSU or the pump unit must accompany an application.

2. Manufacturers Preparing and Submitting Applications for Intrinsic Safety Testing of CPDMs

a. Manufacturers Testing Intrinsic Safety of CPDMs

Under 30 CFR 74.11(a), the applicant must conduct tests to determine whether a CPDM that is submitted for approval meets the requirements, with the exception of durability testing, which must be conducted by NIOSH. Applicant testing must be performed by an independent testing entity approved by NIOSH.

Under 30 CFR 74.11(d), the applicant must submit the CPDM to MSHA for testing and evaluation for intrinsic safety, to determine whether the electronic components of the CPDM meet the applicable permissibility provisions.

Under 30 CFR 74.13(b), testing of a CPDM will be performed by the applicant to determine whether it meets the requirements.

Under 30 CFR 18.68(a), tests for intrinsic safety will be conducted under the general concepts of "intrinsically safe", which is defined in section 18.2 as "incapable of releasing enough electrical or thermal energy under

normal or abnormal conditions to cause ignition of a flammable mixture of methane or natural gas and air of the most easily ignitable composition." Further tests or requirements for intrinsic safety may be added at any time if features of construction or use or both indicate them to be necessary.

b. Manufacturers Preparing and Submitting Applications for CPDMs

Under 30 CFR 74.13(b), the applicant must submit a written application in duplicate to MSHA. Each copy of the application must be accompanied by complete scale drawings, specifications, a description of materials, and a copy of the testing protocol and test results which were provided by an independent testing entity. One complete CPDM device must be sent to MSHA with the application.

Under 30 CFR 74.13(c), complete drawings and specifications accompanying each copy of the application must be fully detailed to identify the design of the CPDM and to disclose the dimensions and materials of all component parts.

Under 30 CFR 74.9(a)(1)(i), the applicant must establish and maintain a quality control system that assures that CPDM devices produced under the applicant's certificate of approval meet the required specifications and are reliable, safe, effective, and otherwise suitable for their intended use. To establish and to maintain an approval, the applicant must submit with the application a copy of the most recent registration under International Organization for Standardization (ISO) Q9001-2000, American National Standard, Quality Management Systems-Requirements.

3. Manufacturers Providing CMDPSU or CPDM Devices

Under 30 CFR 74.16(a), as part of the permanent record of the approval application process, MSHA will retain a complete CMDPSU or CPDM, as appropriate, that has been tested and certified. Material not required for record purposes will be returned to the applicant at the applicant's request and expense upon receipt of written shipping instructions by MSHA.

4. MSHA Issuing Certificates of Approval or Notices of Disapproval

Under 30 CFR 74.14(a), upon completion of the testing of the pump unit of a CMDPSU or after review of testing protocols and testing results for the CPDM, MSHA must issue to the applicant either a certificate of approval or a written notice of disapproval. If a certificate of approval is issued, no test

data or detailed results of tests will accompany such approval. If a notice of disapproval is issued, it will be accompanied by details of the defects, resulting in disapproval, with a view to possible correction.

5. Manufacturers Recordkeeping Certificates

Under 30 CFR 74.14(b), a certificate of approval will be accompanied by a list of the drawings and specifications covering the details of design and construction of the pump unit of a CMDPSU or of the CPDM, upon which the certificate of approval is based. The applicant must keep exact duplicates of the drawings and specifications submitted to MSHA relating to the pump unit of the CMDPSU or the CPDM, which has received a certificate of approval. The approved drawings and specifications must adhere exactly to the production of the certified CMDPSU including the pump unit, or of the CPDM, for commercial purposes. In addition, the applicant must observe the procedures for, and keep records of, the control of component parts as MSHA may in writing require as a condition of approval.

6. Manufacturers Making Changes After Certification

Under 30 CFR 74.17(b), if a change is proposed in a pump unit of a certified CMDPSU or in electrical components of a CPDM, the approval of MSHA with respect to intrinsic safety must be obtained in accordance with the required procedures.

Mine operators' burden and costs associated with recordkeeping and reporting requirements of CMDPSU and CPDM sampling are included in a separate ICR under OMB Control Number 1219-0011 titled "Respirable Coal Mine Dust Sampling".

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection titled "Coal Mine Dust Sampling Devices." MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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 submission of responses.

The ICR is available on <https://www.regulations.gov>. MSHA cautions commenters against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL-MSHA, Office of Standards, Regulations and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202-693-9455 to make an appointment.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This ICR concerns provisions for Coal Mine Dust Sampling Devices. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this ICR from the previous ICR.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219-0147.

Affected Public: Business or other for-profit entity.

Number of Annual Respondents: 1.

Frequency: On Occasion.

Number of Annual Responses: 1.

Annual Time Burden: 41 hours.

Annual Other Burden Costs: \$301,810.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed ICR; they will become a matter of public record and be available at <https://www.reginfo.gov>.

Jessica Senk,
Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2025-12438 Filed 7-2-25; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219-0140]

Proposed Extension of Information Collection: High-Voltage Continuous Mining Machine Standards for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program for all information collections to provide the public and Federal agencies with an opportunity to comment on proposed 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. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection titled "High-Voltage Continuous Mining Machine Standards for Underground Coal Mines."

DATES: All comments must be received on or before September 2, 2025.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

- *Federal E-Rulemaking Portal:* <https://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA-2025-0038.

- *Mail/Hand Delivery:* DOL-MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202-693-9455 to make an appointment.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Jessica Senk, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693-9440 (voice); or (202)

693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal and nonmetal mines.

The Paperwork Reduction Act of 1995 (PRA) governs paperwork burdens imposed on the public by Federal agencies for using identical questions to collect information from 10 or more persons. The PRA defines paperwork burden in 44 U.S.C. 3502(2) as time, effort, or financial resources expended to generate, maintain, or provide information to or for a Federal agency. Under 44 U.S.C. 3507, the PRA also establishes policies and procedures of information collection for controlling paperwork burdens imposed by Federal agencies on the public, including evaluating public comments.

B. Information Collection

To fulfill its statutory mandate to promote miners' health and safety, MSHA requires information under the information collection request (ICR) titled "High-Voltage Continuous Mining Machine Standards for Underground Coal Mines." The information collection is intended to ensure that underground coal mine operators conduct necessary examinations and tests relating to hazardous conditions encountered by miners working with and around high-voltage continuous mining machines (HVCMMs). The records of these examinations and tests are critical to decisions that impact the health and safety of miners working with and around HVCMMs.

Requirements in 30 CFR part 75 provide for the safe use of HVCMMs for those underground coal mine operators that choose to use an HVCMM. These requirements for examination, maintenance, and recordkeeping on HVCMMs reduce the risk of fire, electrical shock, ignition, and other operational hazards.

Burden costs associated with the ICR include:

(i) Examinations and corrective actions prior to tramming HVCMM in and out of the mine and from section to section;

(ii) Locking out and tagging of high-voltage trailing cables; and

(iii) Examinations, corrective actions, and recordkeeping of HVCMMs.

Authorization and the associated rule text are described below.

1. Examinations and Corrective Actions Prior to Tramming HVCMMs In and Out of the Mine and From Section to Section

Under 30 CFR 75.829(b)(1), prior to tramming the HVCMM, a qualified person must activate the ground-fault and ground-wire monitor test circuits of the power sources (medium-voltage power source and step-up transformer) to assure that the corresponding circuit-interrupting device opens the circuit. Corrective actions and recordkeeping resulting from these tests must be in accordance with paragraphs 75.832(f) and (g).

Under 30 CFR 75.829(b)(2), prior to tramming the HVCMM and where applicable, a person designated by the mine operator must activate the test circuit for the grounded-phase detection circuit on the HVCMM to assure that the detection circuit is functioning properly. Corrective actions resulting from these tests must be in accordance with paragraph 75.832(f).

Under 30 CFR 75.832(f), when examinations or tests of equipment reveal a risk of fire, electrical shock, ignition, or operational hazard, the equipment must be immediately removed from service or repaired.

Under 30 CFR 75.832(g)(1), at the completion of examinations required for HVCMMs under 30 CFR 75.832(a), ground-fault test circuit verification under 30 CFR 75.832(b), and ground-wire monitor examinations and tests under 30 CFR 75.832(c), the person conducting the examinations and tests must:

(i) Certify by signature and date that the examinations and tests have been conducted.

(ii) Make a record of any unsafe condition found.

Under 30 CFR 75.832(g)(2), any corrective actions must be recorded by the person taking the corrective action.

Under 30 CFR 75.832(g)(3), these records must be countersigned by the mine foreman or equivalent mine official by the end of the mine foreman's or equivalent mine official's next regularly scheduled working shift.

Under 30 CFR 75.832(g)(4), records must be maintained in a secure book that is not susceptible to alteration or electronically in a computer system that

is secure and not susceptible to alteration.

Under 30 CFR 75.832(g)(5), certifications and records must be kept for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and representatives of miners.

2. Locking Out and Tagging of High-Voltage Trailing Cables

Under 30 CFR 75.831(a), prior to performing electrical work, other than troubleshooting and testing, on the high-voltage trailing cable or HVCMM, a qualified person must de-energize the power center and follow procedures specified:

(i) If a trailing cable disconnecting switch is provided:

(a) Open and ground the power conductors, lock out and tag the disconnecting switch; and

(b) Lock out and tag the plug to the power receptacle.

(ii) If a trailing cable disconnecting switch is not provided and a cable coupler is used as a disconnecting device:

(a) Remove the plug from the power receptacle and connect it to the grounding receptacle;

(b) Lock out and tag the plug to the grounding receptacle; and

(c) Place a dust cover over the power receptacle.

Under 30 CFR 75.831(b), during troubleshooting and testing, the de-energized high-voltage cable may be disconnected from the power center only for that period of time necessary to locate the defective condition. Prior to troubleshooting and testing trailing cables, a qualified person must perform the following:

(i) If a trailing cable disconnecting switch is provided:

(a) Open and ground power conductors and lock out and tag the disconnecting switch;

(b) Disconnect the plug from the power receptacle;

(c) Lock out and tag the plug; and

(d) Place a dust cover over the power receptacle.

(ii) If a trailing cable disconnecting switch is not provided and a cable coupler is used as a disconnecting device:

(a) Remove the plug from the power receptacle and connect it to the grounding receptacle to ground the power conductors;

(b) Remove the plug from the grounding receptacle and install a lock and tag on the plug; and

(c) Place a dust cover over the power receptacle.

Under 30 CFR 75.831(d), before any work is performed inside any

compartment of the power center, except for troubleshooting and testing energized circuits as specified in 30 CFR 75.831(c) regarding troubleshooting and testing limitations, a qualified person must:

- (i) De-energize affected circuits;
- (ii) Open the corresponding disconnecting switch, lock it out, and tag it to assure the circuit is isolated;
- (iii) Visually verify that the contacts of the disconnecting switch are open and grounded; and
- (iv) Discharge all high-voltage capacitors and circuits.

Under 30 CFR 75.831(e)(1), when more than one qualified person is performing electrical work, including troubleshooting and testing, each person must install an individual lock and tag. Each lock and tag must be removed only by the persons who installed them.

Under 30 CFR 75.831(e)(2), if the person who installed the lock and tag is unavailable, the lock and tag may be removed by a person authorized by the operator, provided that:

- (i) The authorized person is a qualified person; and
- (ii) The mine operator assures that the person who installed the lock and tag is aware that the lock and tag have been removed.

3. Examinations, Corrective Actions, and Recordkeeping of HVCMMs

A. Examinations and Tests

Under 30 CFR 75.832(a), at least once every 7 days, a qualified person must examine each HVCMM to verify that electrical protection, equipment grounding, permissibility, cable insulation, and control devices are properly installed and maintained.

Under 30 CFR 75.832(b), at least once every 7 days, and prior to trammings the HVCMM, a qualified person must activate the ground-fault test circuit to verify that it will cause the corresponding circuit-interrupting device to open.

Under 30 CFR 75.832(c), at least once every 7 days, and prior to trammings the HVCMM, a qualified person must examine and test each HVCMM ground-wire monitor circuit to verify that it will cause the corresponding circuit-interrupting device to open.

Under 30 CFR 75.832(d)(1), once each day during the shift that the HVCMM is first energized, a qualified person must de-energize and inspect the entire length of the high-voltage trailing cable from the power center to the HVCMM. The inspection must include examination of the outer jacket repairs

and splices for damage, and assure guarding is provided where required.

Under 30 CFR 75.832(d)(2), at the beginning of each shift that the HVCMM is energized, a person designated by the mine operator must de-energize and visually inspect the high-voltage trailing cable for damage to the outer jacket. This inspection must be conducted from the HVCMM to the following locations:

- (i) The last open crosscut;
- (ii) Within 150 feet of the working place during retreat or second mining; or
- (iii) Up to 150 feet from the HVCMM when the machine is used in outby areas.

Under 30 CFR 75.832(e), when a grounded-phase test circuit is provided on an HVCMM, a person designated by the mine operator must activate the test circuit at the beginning of each production shift to assure that the detection circuit is functioning properly.

B. Corrective Actions

Under 30 CFR 75.832(f), when examinations or tests of equipment reveal a risk of fire, electrical shock, ignition, or operational hazard, the equipment must be immediately removed from service or repaired.

C. Certification and Recordkeeping

Results of examinations, tests, and corrective actions are recorded under 30 CFR 75.832(g).

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection titled “High-Voltage Continuous Mining Machine Standards for Underground Coal Mines.” MSHA is particularly interested in comments that:

- Evaluate whether the information collection is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA’s estimate of the burden of the information collection, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of

information technology, *e.g.*, permitting electronic submission of responses.

The information collection request will be available on <https://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9455 to make an appointment.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This information collection request concerns provisions for High-Voltage Continuous Mining Machine Standards for Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0140.

Affected Public: Business or other for-profit entity.

Number of Annual Respondents: 3.

Frequency: On occasion.

Number of Annual Responses: 4,070.

Annual Time Burden: 124 hours.

Annual Other Burden Costs: \$0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and be available at <https://www.reginfo.gov>.

Jessica Senk,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2025–12437 Filed 7–2–25; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR**Mine Safety and Health Administration**

[OMB Control No. 1219–0141]

Proposed Extension of Information Collection: Emergency Mine Evacuation**AGENCY:** Mine Safety and Health Administration, Labor.**ACTION:** Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program for all information collections, to provide the public and Federal agencies with an opportunity to comment on proposed 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. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection titled “Emergency Mine Evacuation.”

DATES: All comments must be received on or before September 2, 2025.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

- *Federal E-Rulemaking Portal:* <https://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA–2025–0036.

- *Mail/Hand Delivery:* DOL–MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9455 to make an appointment.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Jessica Senk, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:**I. Background***A. Legal Authority*

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal and nonmetal mines.

The Paperwork Reduction Act of 1995 (PRA) governs paperwork burdens imposed on the public by Federal agencies for using identical questions to collect information from 10 or more persons. The PRA defines paperwork burden in 44 U.S.C. 3502(2) as time, effort, or financial resources expended to generate, maintain, or provide information to or for a Federal agency. Under 44 U.S.C. 3507, the PRA also establishes policies and procedures of information collection for controlling paperwork burdens imposed by Federal agencies on the public, including evaluating public comments.

B. Information Collection

To fulfill its statutory mandate to promote miners’ health and safety, MSHA requires information collected under the information collection request (ICR) titled “Emergency Mine Evacuation.” The information collection is intended to ensure that all miners receive training on the mine’s emergency evacuation plan and self-rescuers. Specifically, miner training for mine emergencies includes mine emergency firefighting and evacuation training and drills; storing, testing, tracking, and using self-contained self-rescuers (SCSRs); and installing and maintaining escapeways in underground coal mines. Mine operators must also maintain an inventory of SCSRs and ensure they are operational in case of an emergency.

Burden costs associated with this information collection request include:

- Submission of revised training plans;
- Submission of new and revised mine emergency evacuation and firefighting programs of instruction;
- Certifications of mine emergency evacuation training and drills;
- Revisions to and post escapeway maps;

- Certifications of filter self-rescuers (FSR) and SCSR tests

- Reporting of SCSR inventories and malfunctions; and

- Signs of SCSR storage.

Authorization and the associated rule text are described below.

1. Submission of Revised Training Plans

Under 30 CFR 48.3(p), each underground coal mine operator who is required to submit a revised mine emergency evacuation and firefighting program of instruction under 30 CFR 75.1502 must also submit a revised training plan under part 48.

2. Submission of New and Revised Mine Emergency Evacuation and Firefighting Programs of Instruction

Under 30 CFR 75.1502(a), mine operators must submit a mine emergency evacuation and firefighting program of instruction and any revisions, for approval to the District Manager in which the mine is located. Within 30 days of approval, the operator must conduct training in accordance with the revised program.

Under 30 CFR 75.1502(c), the approved program must include a specific plan designed to instruct miners on all shifts on the following: procedures for evacuating the mine; procedures related to deploying refuge alternatives; training on location, quantity, types, and use of stored SCSRs; and other information.

3. Certification of Mine Emergency Evacuation Training and Drills

Under 30 CFR 75.1504, each operator of an underground coal mine must conduct mine emergency evacuation training and drills and require all miners to participate.

Under 30 CFR 75.1504(a), all miners must participate in a mine emergency evacuation training and drill once each quarter.

Under 30 CFR 75.1504(a)(1), a newly hired miner, who has not participated in a mine emergency evacuation training and drill at the mine within the previous 3 months, must participate in the next applicable mine emergency evacuation training and drill.

Under 30 CFR 75.1504(a)(2), prior to assuming duties on a section or outby work location, a foreman must travel both escapeways in their entirety.

Under 30 CFR 75.1504(b), each quarterly evacuation training and drill must include the following: hands-on training on all types of self-rescue devices and fire suppression equipment used at the mine; training that emphasizes the importance of proper use of the SCSR; a realistic escapeway

drill; a review of the mine and escapeway maps, the firefighting plan, and the mine emergency evacuation plan in effect at the mine; and a review of the procedures for deploying refuge alternatives and components.

Under 30 CFR 75.1504(c), over the course of each year, each miner must participate in annual expectations training that includes the following: donning and transferring SCSRs in smoke, simulated smoke, or an equivalent environment; breathing through a realistic SCSR training unit that provides the sensation of SCSR airflow resistance and heat; and deployment and use of refuge alternatives similar to those in use at the mine.

Under 30 CFR 75.1504(d), at the completion of each training or drill, mine operators must certify by signature and date that the training or drill was held in accordance with the requirements in 30 CFR 75.1504.

Under 30 CFR 75.1504(d)(1), the certification must include the names of the miners participating in the training or drill and the content of the training or drill component completed, including the escapeway traveled and scenario used, for each miner listed.

Under 30 CFR 75.1504(d)(2), the mine operator is required to keep the certifications at the mine for one year.

Under 30 CFR 75.1504(d)(3), upon request, the certifications must be made available to an authorized representative of the Secretary and the representative of the miners.

Under 30 CFR 75.1504(d)(4), upon request, a copy of the certification that shows his or her own training must be provided to the participating miner.

4. Revisions to and Posting of Escapeway Maps

a. Revisions To Escapeway Maps

Under 30 CFR 75.1505(b), all maps must be kept up-to-date and any change in route of travel, location of doors, location of refuge alternatives, or direction of airflow must be shown on the maps by the end of the shift on which the change is made.

Under 30 CFR 75.1714–5, the mine operator must indicate the locations of all stored SCSRs on the mine maps required by 30 CFR 75.1200 and the escapeway maps required by 30 CFR 75.1505.

b. Posting of Escapeway Maps

Under 30 CFR 75.1505(a), an escapeway map must show the designated escapeways from the working sections or the miners' work stations to the surface or the exits at the

bottom of the shaft or slope, refuge alternatives, and SCSR storage locations. The escapeway map must be posted or readily accessible for all miners—

- i. In each working section;
- ii. In each area where mechanized mining equipment is being installed or removed;
- iii. At the refuge alternative; and
- iv. At a surface location of the mine where miners congregate, such as at the mine bulletin board, bathhouse, or waiting room.

5. Certification of FSR and SCSR Tests

Under 30 CFR 75.1714–3(b), after each time a self-rescue device is worn or carried by a person, the device must be inspected for damage and for the integrity of its seal by a person trained to perform this function. Self-rescue devices with broken seals or which are damaged so that the device will not function properly must be removed from service.

Under 30 CFR 75.1714–3(c), all FSRs approved by MSHA and NIOSH under 42 CFR part 84, except devices using vacuum containers as the only method of sealing, must be tested at intervals not exceeding 90 days by weighing each device on a scale or balance accurate to within + 1 gram. A device that weighs more than 10 grams over its original weight must be removed from service.

Under 30 CFR 75.1714–3(d), all SCSRs approved by MSHA and NIOSH under 42 CFR part 84 must be tested in accordance with instructions approved by MSHA and NIOSH. Any device which does not meet the specified test requirements must be removed from service.

Under 30 CFR 75.1714–3(e), at the completion of each test required by 30 CFR 75.1714–3(c) and (d), the person making the tests must certify by signature and date that the tests were done. This person must make a record of all corrective action taken. Certifications and records must be kept at the mine and made available on request to an authorized representative of the Secretary.

6. Reporting of SCSR Inventories and Malfunctions

Under 30 CFR 75.1714–8(a), a mine operator must submit to MSHA a complete inventory of all SCSRs at each mine. New mines must submit the inventory within 3 months of beginning operation.

Under 30 CFR 75.1714–8(a)(1), the inventory must include the mine name, MSHA mine ID number, and mine location; and for each SCSR unit, the manufacturer, the model type, the date of manufacture, and the serial number.

Under 30 CFR 75.1714–8(a)(2), in the event that a change in the inventory occurs, a mine operators must report the change to MSHA within the quarter that the change occurs (Jan–Mar, Apr–Jun, Jul–Sep, Oct–Dec).

Under 30 CFR 75.1714–8(b), a mine operator must report to MSHA any defect, performance problem, or malfunction with the use of an SCSR. The report must include a detailed description of the problem and, for each SCSR involved, the information required under 30 CFR 75.1714–8(a)(1).

Under 30 CFR 75.1714–8(c), the mine operator must preserve and retain each SCSR reported under 30 CFR 75.1714–8(b) for 60 days after reporting the problem to MSHA.

7. Signs of SCSR Storage

Under 30 CFR 75.1714–2(f), if an SCSR is not carried out of the mine at the end of a miner's shift, the place of storage must be approved by the District Manager. A sign made of reflective material with the word "SCSRs" or "SELF-RESCUERS" must be conspicuously posted at each SCSR storage location. Direction signs made of a reflective material must be posted leading to each storage location.

Under 30 CFR 75.1714–2(g)(2), when the one-hour canister is placed in a storage location, a sign made of a reflective material with the word "SCSRs" or "SELF-RESCUERS" must be conspicuously posted at each storage location. Direction signs made of a reflective material must be posted leading to each storage location.

Under 30 CFR 75.1714–4(f), a sign made of reflective material with the words "SCSRs" or "SELF-RESCUERS" must be conspicuously posted at each storage location. Direction signs made of a reflective material must be posted leading to each storage location.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection titled "Emergency Mine Evacuation." MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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 submission of responses.

The ICR will be available on <https://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9455 to make an appointment.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This ICR concerns provisions for Emergency Mine Evacuation. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this ICR from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0141.

Affected Public: Business or other for-profit entity.

Number of Annual Respondents: 150.

Frequency: On occasion.

Number of Annual Responses: 979,804.

Annual Time Burden: 422,930 hours.

Annual Other Burden Costs: \$37,352.

MSHA Form: MSHA Form 2000–222, *Self-Contained Self-Rescuer (SCSR) Inventory and Report*.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed ICR; they will become a matter of public record and be available at <https://www.reginfo.gov>.

Jessica Senk,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2025–12441 Filed 7–2–25; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0001]

Proposed Extension of Information Collection: Certificate of Electrical Training and Applications for MSHA Approved Tests and State Tests Administered as Part of an MSHA-Approved State Program

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program for all information collections to provide the public and Federal agencies with an opportunity to comment on proposed 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. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection titled “Certificate of Electrical Training and Applications for MSHA Approved Tests and State Tests Administered as Part of an MSHA-Approved State Program.”

DATES: All comments must be received on or before September 2, 2025.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

- *Federal E-Rulemaking Portal:* <https://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA–2025–0033.

- *Mail/Hand Delivery:* DOL–MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9455 to make an appointment.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Jessica Senk, Acting Director, Office of

Standards, Regulations, and Variances, MSHA, at

MSHA.information.collections@dol.gov (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal and nonmetal mines.

The Paperwork Reduction Act of 1995 (PRA) governs paperwork burdens imposed on the public by Federal agencies using identical questions to collect information from 10 or more persons. The PRA defines paperwork burden in 44 U.S.C. 3502(2) as time, effort, or financial resources expended to generate, maintain, or provide information to or for a Federal agency. Under 44 U.S.C. 3507, the PRA also establishes policies and procedures of information collection for controlling paperwork burdens imposed by Federal agencies on the public, including evaluating public comments.

B. Information Collection

To fulfill its statutory mandate to promote miners' health and safety, MSHA requires information under the information collection request (ICR) titled “Certificate of Electrical Training and Applications for MSHA Approved Tests and State Tests Administered as Part of an MSHA-Approved State Program.” The information collection is intended to monitor coal miners' qualifications to perform electrical work and to ensure mine operators' compliance with MSHA-approved safety training programs.

Burden costs associated with this ICR include:

1. Instructors submitting MSHA Form 5000–1 to establish that a person is qualified to perform electrical work, or establish that an already qualified person may retain their qualification; and

2. New applicants submitting evidence of eligibility; at least 1 year of

relevant electrical work experience. Authorization and the associated rule text are described below.

Under section 305(g) of the Mine Act, 30 U.S.C. 865(g), all electric equipment must be frequently examined, tested, and properly maintained by a qualified person to ensure safe operating conditions.

Under 30 CFR 75.153(a) and 77.103(a), an individual is a qualified person to perform electrical work on equipment such as low-, medium-, or high-voltage distribution circuits or equipment or electric equipment (other than work on energized surface high-voltage lines) if:

(1) They have been qualified as a coal mine electrician by a State that has a coal mine electrical qualification program approved by the Secretary; or

(2) They have at least 1 year of experience performing electrical work underground in a coal mine, in the surface work area of an underground coal mine, in a surface coal mine, in a non-coal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment and have satisfactorily completed a coal mine electrical training program approved by the Secretary; or,

(3) They have at least 1 year of experience prior to the date of application, in performing electrical work underground in a coal mine, in the surface work area of an underground coal mine, in a surface coal mine, in a non-coal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and they attain a satisfactory grade on each of five written tests approved by the Secretary and prescribed in 30 CFR 75.153(b) and 77.103(b). Under 30 CFR 75.153(b) and 77.103(b), the series of five written tests approved by the Secretary must include the following categories:

(1) Direct current theory and application;

(2) Alternating current theory and application;

(3) Electric equipment and circuits;

(4) Permissibility of electric equipment; and,

(5) Requirements of electrical equipment including general electrical equipment, trailing cables, grounding, high-voltage distribution, low- and medium-voltage alternating current circuits, and trolley wires and trolley feeder wires.

Under 30 CFR 75.153(c) and 30 CFR 77.103(c), to take the series of five written tests approved by the Secretary, an individual must apply to the District Manager and must certify that they meet

the requirement of at least 1 year of relevant electrical work experience prior to the date of application. The tests will be administered in the Districts at regular intervals, or as demand requires.

Under 30 CFR 75.153(g) and 30 CFR 77.103(g), to retain their qualification in accordance with this section, an individual must certify annually to the District Manager that they have satisfactorily completed a coal mine electrical retraining program approved by the Secretary.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection titled "Certificate of Electrical Training and Applications for MSHA Approved Tests and State Tests Administered as Part of an MSHA-Approved State Program." MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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 submission of responses.

The information collection request is available on <https://www.regulations.gov>. MSHA cautions commenters against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL-MSHA, Office of Standards, Regulations and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202-693-9455 to make an appointment.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This information collection request concerns provisions for Certificate of Electrical Training and Applications for MSHA Approved Tests and State Tests Administered as Part of an MSHA-Approved State Program. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219-0001.

Affected Public: Business or other for-profit entity.

Number of Annual Respondents: 248.

Frequency: On occasion.

Number of Annual Responses: 1,512

Annual Time Burden: 695 hours.

Annual Other Burden Costs: \$331.

MSHA Form: MSHA Form 5000-1, Certificate of Electrical Training.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and be available at <https://www.reginfo.gov>.

Jessica Senk,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2025-12435 Filed 7-2-25; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219-0020]

Proposed Extension of Information Collection: Operations Mining Under a Body of Water

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program for all information collections, to provide the public and Federal agencies with an opportunity to comment on proposed 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. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection titled "Operations Mining Under a Body of Water."

DATES: All comments must be received on or before September 2, 2025.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

- **Federal E-Rulemaking Portal:** <https://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA–2025–0051.

- **Mail/Hand Delivery:** DOL–MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9455 to make an appointment.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Jessica Senk, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal, and nonmetal mines.

The Paperwork Reduction Act of 1995 (PRA) governs paperwork burdens imposed on the public by Federal agencies for using identical questions to

collect information from 10 or more persons. The PRA defines paperwork burden in 44 U.S.C. 3502(2) as time, effort, or financial resources expended to generate, maintain, or provide information to or for a Federal agency. Under 44 U.S.C. 3507, the PRA also establishes policies and procedures of information collection for controlling paperwork burdens imposed by Federal agencies on the public, including evaluating public comments.

B. Information Collection

To fulfill its statutory mandates to promote miners' health and safety, MSHA requires the information collected under the information collection request (ICR) titled "Operations Mining Under a Body of Water." This information collection is intended to ensure that underground coal mine operators apply for a permit before mining under bodies of water. MSHA reviews mine operators' applications and issues permits to protect miners from hazards such as flooding, cave-ins, and drowning.

Burden Costs Associated With This ICR Include:

1. Mine operators preparing and submitting applications for permits to work under a body of water; and
2. MSHA reviewing applications and issuing permits to work under a body of water.

Authorization and the associated rule text are described below.

1. Mine Operators Preparing and Submitting Applications for Permits To Work Under a Body of Water (30 CFR 75.1716–1, 75.1716–2, and 75.1716–3)

Under 30 CFR 75.1716–1, whenever an operator plans to mine coal from a coal mine opened after March 30, 1970, or from any working section in a mine opened prior to such date, and in such manner that mining operations will be conducted, or tunnels constructed, under any river, stream, lake, or other body of water, the coal mine operator must give notice to the District Manager prior to the commencement of coal mining operations.

Under 30 CFR 75.1716–2, if in the judgment of the District Manager the proposed mining operations constitute a hazard to miners, the District Manager must promptly notify the operator that a permit is required.

Under 30 CFR 75.1716–3, an application for a permit must be filed with the District Manager and must contain the following general information:

- (a) Name and address of the company.
- (b) Name and address of the mine.

(c) Projected mining and ground support plans.

(d) A mine map showing the location of the river, stream, lake, or other body of water and its relation to the location of all working places.

(e) A profile map showing the type of strata and the distance in elevation between the coal bed and the river, stream, lake or other body of water involved. The type of strata will be determined by core test drill holes as prescribed by the District Manager.

2. MSHA Reviewing Applications and Issuing Permits To Work Under a Body of Water (30 CFR 75.1716–4)

Under 30 CFR 75.1716–4, if the District Manager determines that the proposed mining operations under water can be safely conducted, the District Manager must issue a permit for conducting the proposed mining operations under the terms and conditions deemed necessary to protect the safety of miners engaged in operations.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection titled "Operations Mining Under a Body of Water." MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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 submission of responses.

The ICR is available on <https://www.regulations.gov>. MSHA cautions commenters against providing any information in their submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations and

Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202-693-9455 to make an appointment.

Questions about the ICR may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This ICR concerns provisions for Operations Mining Under a Body of Water. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this ICR from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219-0020.

Affected Public: Business or other for-profit entity.

Number of Annual Respondents: 99.

Frequency: On Occasion.

Number of Annual Responses: 50.

Annual Time Burden: 275 hours.

Annual Other Burden Costs: \$300.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed ICR; they will become a matter of public record and be available at <https://www.reginfo.gov>.

Jessica Senk,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2025-12440 Filed 7-2-25; 8:45 am]

BILLING CODE 4510-43-P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's Committee on Strategy hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business pursuant to the NSF Act and the Government in the Sunshine Act.

TIME AND DATE: Monday, July 7, 2025, from 2:00–2:45 p.m. Eastern.

PLACE: This meeting will be via videoconference through the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda is: Chair's Opening Remarks about the Agenda; Update on NSF FY 2026–2030 Strategic Plan.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is:

Chris Blair, cblair@nsf.gov, 703/292-7000. Meeting information and updates may be found at www.nsf.gov/nsb.

Ann E. Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2025-12456 Filed 7-1-25; 11:15 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2025-0001]

Sunshine Act Meetings

TIME AND DATE: Week of June 30, 2025.

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: Closed.

MATTERS TO BE CONSIDERED:

Week of June 30, 2025

Tuesday, July 1, 2025

3:00 p.m. Internal Management and Personnel Matters (Closed Ex. 2)

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Monika Coffin at 301-415-5932 or via email at Monika.Coffin@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: July 1, 2025.

For the Nuclear Regulatory Commission.

Monika G. Coffin,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2025-12497 Filed 7-1-25; 4:15 pm]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-275 and 50-323; NRC-2024-0148]

Pacific Gas & Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2; Petition

AGENCY: Nuclear Regulatory Commission.

ACTION: Director's decision under 10 CFR 2.206; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a director's decision with regard to a petition dated March 4, 2024, as supplemented on June 7, 2024, July 17, 2024, and October 31, 2024, filed by San Luis Obispo Mothers for Peace, Friends of the Earth, and Environmental Working Group (the petitioner), requesting that the NRC take action with regard to Pacific Gas & Electric Co. (the licensee). The petitioner's requests and the director's decision are included in the **SUPPLEMENTARY INFORMATION** section of this document.

DATES: The director's decision was issued on June 26, 2025.

ADDRESSES: Please refer to Docket ID NRC-2024-0148 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-2024-0148. 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. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

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

FOR FURTHER INFORMATION CONTACT:

Dennis J. Galvin, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington,

DC 20555-0001; telephone: 301-415-6256; email: Dennis.Galvin@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the director's decision is attached.

The documents identified in the following table are available to interested persons through ADAMS.

Document description	Adams accession No.
Petition submitted by San Luis Obispo Mothers for Peace, Friends of the Earth, and Environmental Working Group, dated March 4, 2024.	ML24067A066.
NRC SECY Order referring the petition to the 10 CFR 2.206 process, dated March 12, 2024	ML24072A529.
NRC Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," dated March 1, 2019	ML18296A043.
NRC email to Petitioner's, dated March 28, 2024	ML24088A238.
Email from the NRC to the Petitioners regarding Diablo Canyon Seismic Core Damage 2.206 petition—Initial Assessment, dated May 15, 2024.	ML24136A162.
Petition Supplement, dated June 7, 2024	ML24162A079.
Public Meeting Petitioner Presentation to the PRB, dated July 17, 2024	ML24198A105.
Public Meeting Official Transcript of Proceedings, dated July 17, 2024	ML24218A164.
NRC Acknowledgement Letter, dated August 27, 2024	ML24205A066.
PG&E Voluntary Submittal of Information, dated October 24, 2024	ML24298A234.
Petition Supplement, dated October 30, 2024	ML24305A187.
Supplement Acknowledgement Letter, dated December 5, 2024	ML24317A038.
Response to request for additional information regarding seismic models developed by PG&E, dated March 11, 2015.	ML15071A046 (Package).
Response to request for additional information, regarding NRC's 50.54(f) request, dated March 12, 2012	ML12056A046 (Package).
NRC staff assessment and conclusion, dated December 21, 2016	ML16341C057.
NUREG/KM-0017, "Seismic hazard Evaluations for U.S. Nuclear Power Plants; Near-Term Task Force Recommendation 2.1 Results," published December 2021.	ML21344A126.
NUREG-2213, "Updated Implementation Guidelines for SSHAC Hazard Studies," published October 2018	ML18282A082.
NRC staff review of Seismic Probabilistic Risk Assessment, dated December 22, 2019	ML18254A040.
Proposed Director's Decision, dated April 10, 2025	ML24264A091 (Package).
Proposed Director's Decision, dated April 10, 2025	ML24302A148.
Attachment to the Proposed Director's Decision: Figures 1 through 9	ML25093A060.
Proposed Director's Decision letter to Petitioners, dated April 10, 2025	ML24302A153.
Proposed Director's Decision letter to Licensee, dated April 10, 2025	ML24302A154.
Comments on Proposed Director's Decision, dated May 15, 2025	ML25136A355.
Director's Decision DD-25-01, dated June 26, 2025	ML25160A132 (Package).
Director's Decision DD-25-01, dated June 26, 2025	ML25160A125.
Attachment to the Director's Decision: Figures 1 through 9	ML25161A264.
Director's Decision letter to Petitioners, dated June 26, 2025	ML25160A124.

Dated: June 30, 2025.

For the Nuclear Regulatory Commission.

Dennis Galvin,

*Project Manager, Plant Licensing Branch IV,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.*

Attachment—Director's Decision Under 10 CFR 2.206

DD-25-01

United States of America

Nuclear Regulatory Commission

Office of Nuclear Reactor Regulation

Michael X. Franovich, Deputy Director

In the Matter of Pacific Gas and Electric Co.
Diablo Canyon, Nuclear Power Plant, Units 1 and 2

Docket Nos. 50-275 and 50-323

License Nos. DPR-80 and DPR-82

Director's Decision Under 10 CFR 2.206

I. Introduction

On March 4, 2024, the San Luis Obispo Mothers for Peace, Friends of the Earth, and Environmental Working Group petitioned the U.S. Nuclear Regulatory Commission (NRC) requesting that the NRC exercise its supervisory authority to order the immediate closure of Diablo Canyon Nuclear Power Plant, Units 1 and 2 (Diablo Canyon), due to

"the unacceptable risk of a seismically induced severe accident" (Agencywide Documents Access and Management System Accession No. ML24067A066). On March 12, 2024 (ML24072A529), the Office of the Secretary of the Commission referred the petitioners' request to the enforcement petition process under Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.206, "Requests for action under this subpart."

The basis for the petitioners' request, as included in the original petition and in the petitioners' supplements, is summarized below:

Concern 1: Thrust faulting is neglected by Pacific Gas & Electric Company's (PG&E) 2015 Seismic Source Characterization (SSC) model¹ because the model assumes that a majority of large earthquakes affecting Diablo Canyon are strike-slip and disregards the significant contribution of thrust faulting earthquake sources under the Diablo Canyon site and the adjacent Irish Hills. In addition,

¹ In 2015, PG&E developed the Diablo Canyon seismic source characterization (SSC) model and the ground motion characterization (GMC) model and documented them in reports, which are referred to herein as the PG&E 2015 SSC Report and the PG&E 2015 GMC Report. These reports are available on the PG&E website <https://www.pge.com/en/about/pge-systems/nuclear-power/seismic-safety-at-diablo-canyon.html#tabs-2967acbbcb-item-1b0b13e766-tab>.

the hazard characterization performed by PG&E did not use a hanging-wall term for the modeling of potential ground motions from the Los Osos and San Luis Bay thrust faults.

Concern 2: The January 2024 magnitude 7.5 earthquake centered in the Noto Peninsula (Japan), with an average slip of 2 meters on the fault, is analogous to future potential thrust mechanism earthquakes beneath Diablo Canyon. Based on the slip rate of an "inferred" offshore thrust fault proposed by the petitioners, which is located beneath the Irish Hills adjacent to Diablo Canyon and the slip of the Noto earthquake, large ground motions from thrust fault earthquakes will occur, on average, every 715 years near the Diablo Canyon site.

Concern 3: PG&E's SSC model does not account for an "inferred" offshore thrust fault that has the potential for producing a magnitude 7.5 earthquake. Based on regional stratigraphy, gravity modeling and global positioning system (GPS) modeling, the total thrust faulting slip rate beneath the Irish Hills is between 2.0 to 2.8 millimeter per year (mm/yr), which is not accounted for in PG&E's SSC model.

Concern 4: Seismic core damage frequency, estimated by PG&E in 2018 to be 3×10^{-5} , should be 1.4×10^{-3} per year (about once every 715 years) based on this higher recurrence rate for thrust earthquakes.

In accordance with the handbook for NRC Management Directive (MD) 8.11, "Review

Process for 10 CFR 2.206 Petitions,” dated March 1, 2019 (ML18296A043), Section III, “Petition Review Board (PRB),” NRC staff promptly deliberated on the request for immediate action and began the screening process. On March 28, 2024 (ML24088A238), the petitioners were informed that the NRC staff concluded that no immediate action is necessary, that the concerns expressed in the petition were screened into the 2.206 process, and that a PRB would be assembled to evaluate the concerns.

In an email dated May 15, 2024 (ML24136A162), the petition manager informed the petitioners that the PRB’s initial assessment was that the petition did not meet the criteria in MD 8.11 for accepting petitions under 10 CFR 2.206 because “the issues raised have previously been the subject of a facility-specific or generic NRC staff review” and the petition does not provide significant new information that the staff did not consider in a prior review.

On June 7, 2024, the petitioners submitted a supplement to the petition (ML24162A079).

The NRC held a public meeting with the petitioners on July 17, 2024. The petitioners’ presentation (ML24198A105) and the meeting transcript (ML24218A164) are considered supplements to the petition. This supplemental information provided by the petitioners is addressed below as part of the NRC staff’s response to Concern 3.

On August 27, 2024 (ML24205A066), the NRC issued an acknowledgement letter informing the petitioners that the concerns raised in the petition, as supplemented, now meet the criteria in MD 8.11 for accepting petitions under 10 CFR 2.206 and that the concerns would undergo further review by the PRB. The letter also informed petitioners that the PRB determined that there is no imminent safety concern that warrants immediate shutdown of Diablo Canyon.

On October 24, 2024, PG&E provided a voluntary submittal (ML24298A234) to the NRC related to the PRB review of the petition. On October 31, 2024, the petitioners submitted a supplement to the petition (ML24305A187) in response, in part, to the October 24, 2024, PG&E voluntary submittal.

On December 5, 2024 (ML24317A038), the NRC issued a supplemental acknowledgement letter informing the petitioners that two concerns from the October 31, 2024, supplement would be included in the ongoing PRB review. These supplemental concerns provided by the petitioners are addressed below as part of the NRC staff’s response to Concern 3. The letter also informed petitioners that the PRB determined that there is no imminent safety concern that warrants immediate shutdown of Diablo Canyon.

Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC’s Library at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS, who encounter problems in accessing the documents located in ADAMS, or who want to inspect publicly available documents at the NRC’s Public Document Room at 11555 Rockville Pike, Rockville, MD 20852 should contact the NRC’s PDR reference staff by telephone at 1–800–397–

4209 or 301–415–4737, or by email to pdr.resource@nrc.gov.

II. Discussion

Concern 1: Thrust faulting is neglected by PG&E’s 2015 SSC model because the model assumes that a majority of large earthquakes affecting Diablo Canyon are strike-slip and disregards the significant contribution of thrust faulting earthquake sources under the Diablo Canyon site and the adjacent Irish Hills. In addition, the hazard characterization performed by PG&E did not use a hanging-wall term for the modeling of potential ground motions from the Los Osos and San Luis Bay thrust faults.

Based on its previous review in 2016 of the seismic models developed by PG&E, which are summarized in PG&E’s seismic hazard and screening report (ML15071A046), in response to the NRC’s 50.54(f) request (ML12056A046), the PRB disagrees with the petitioners’ claims that thrust faulting was not adequately accounted for by PG&E in its seismic source model and that a hanging-wall term was not implemented in the seismic ground motion model. The PRB supports the NRC’s conclusion in 2016 (ML16341C057) that PG&E adequately accounted for reverse or thrust faulting in the alternative fault geometry models developed for the SSC model and that a hanging-wall term was implemented for the Ground Motion Characterization (GMC) model, which increased the ground motion as expected. The bases for the PRB conclusions are provided below.

Diablo Canyon is located on the southwest slope of the Irish Hills in the northern part of the San Luis Range in central coastal California. The current tectonic setting for the region around Diablo Canyon is a transform plate boundary that accommodates horizontal relative motions consisting of strike-slip faults with transpressional deformation, resulting in localized areas of uplift and folding alongside the major fault zone. Strike-slip faults display predominantly horizontal movement, usually along a nearly vertical fault surface, and transpression refers to a type of strike-slip deformation where shortening (compression) occurs perpendicular to the fault plane because of the presence of bends along the fault line. The San Luis Range in central coastal California is a topographic and structural elevation high (maximum elevation of 1,784 meters) that formed within this region of reverse and oblique slip faults due to this transpressional deformation. A reverse fault is a fault where the upper side of the fault, called the hanging wall, moves up and over the lower or foot wall side of the fault, and an oblique slip fault is a fault in which the two sides of the fault simultaneously move both vertically and horizontally. For its SSC model, developed in response to the NRC’s 50.54(f) request, PG&E modeled the uplift of the Irish Hills, located in the San Luis Range adjacent to Diablo Canyon, assuming rigid block uplift resulting from reverse faulting on the moderate to steeply dipping (45 to 80 degrees) Los Osos and San Luis Bay faults rather than from folding deformation on a low-dip angle (25 degrees) “inferred” offshore thrust fault, as

postulated by the petitioners. Thrust faulting is a type of reverse faulting with a dip angle of 45 degrees or less. To develop the SSC model, PG&E used recently acquired offshore and onshore two- and three-dimensional seismic reflection data, multibeam bathymetric data, geodetic data, and an updated seismicity catalog to better define the location, geometry, and slip rate of the faults in the area around Diablo Canyon. Modeling the uplift of the Irish Hills as a rigid block is based on this extensive geologic field work and geophysical surveys, which PG&E has been supporting for many years, going back to the 1980s.

PG&E’s reevaluation of the seismic hazard in response to the NRC’s 50.54(f) request determined that four faults contribute to the majority of the seismic hazard at Diablo Canyon. These four faults are the Hosgri, Los Osos, San Luis Bay, and Shoreline faults. The Hosgri and Shoreline faults are near-vertical strike-slip faults, and the Los Osos and San Luis Bay faults are reverse faults that border the northeastern and southern margins of the Irish Hills, respectively. Figure 1,² from the PG&E 2015 SSC Report and incorporated into NUREG/KM–017, “Seismic Hazard Evaluations for U.S. Nuclear Power Plants: Near-Term Task Force Recommendation 2.1 Results” (ML21344A126), shows the location of Diablo Canyon relative to the Irish Hills and the four faults that contribute the most to the hazard.

As specified in the 50.54(f) request, PG&E implemented the SSHAC approach in NUREG–2213, “Updated Implementation Guidelines for SSHAC Hazard Studies” (ML18282A082), to develop the SSC and GMC models used to determine the seismic hazard for the Diablo Canyon site. The SSHAC approach is focused on two critical activities: evaluation and integration. The evaluation activity is defined as an assessment of the complete set of data, models, and methods that are relevant to the hazard analysis as proposed by the larger technical community, consisting of geologists and seismologists with expertise in coastal California tectonics. The SSHAC guidelines provide a method for facilitating interactions with the SSHAC team and members of the larger technical community to exchange viewpoints and to challenge proponents of differing hypotheses. The integration activity is the development of SSC and GMC models that capture all technically defensible interpretations, as informed by the evaluation activity. There are four SSHAC study levels, with the higher levels involving a greater number of participants and a longer duration to more fully assess available data, models, and methods. A key element of the SSHAC approach is participatory peer review from an outside panel (Participatory Peer Review Panel or PPRP) to ensure that the full range of data, models, and methods are considered in the evaluation phase and that the center (median), body (16th to 84th percentile), and range (5th to 95th percentile) of technically defensible interpretations are integrated into the seismic source and ground motion

² See the “Attachment to the Director’s Decision: Figures 1 through 9” in ML25161A264 for Figures 1 through 9.

models to capture the uncertainty in seismic hazard as required by 10 CFR 100.23, “Geologic and seismic siting criteria.”

In response to the 50.54(f) request, PG&E performed a Level 3 SSHAC study for its reevaluation of the seismic hazard for the Diablo Canyon site. Development and documentation of the source and ground motion models were performed from June 2011 to March 2015 and included three formal workshops conducted in San Luis Obispo, California, which were open to the public. Dr. Bird, expert witness for the petitioners, participated in the second public workshop in 2012 and presented his views “on both strike-slip and compressional deformation rates affecting the region” (PG&E 2015 SSC Report). Elements of Dr. Bird’s views (uplift of Irish Hills due to slip on low-angle reverse or thrust faults) were incorporated into the SSC model developed by the SSHAC team; however, other alternative models were also developed by the SSHAC team in order to capture the uncertainty in the local faulting mechanisms and underlying tectonics. As observers of the three formal public workshops in 2012, the NRC staff viewed the wide range of hypotheses proposed by the experts for the current regional transpressional tectonic setting around Diablo Canyon.

To accommodate the multiple hypotheses proposed by the experts, PG&E developed three alternative fault geometry models to capture the range of potential mechanisms driving uplift of the Irish Hills. These models include the Outward-Vergent, Southwest-Vergent, and Northeast-Vergent models. The Southwest-Vergent model considers the San Luis Bay fault as a reverse or thrust fault with a dip angle of 45 degrees and incorporates aspects of theories proposed by the petitioners. In addition to the three fault geometry models, the SSC model also accounts for earthquakes potentially occurring on previously unidentified faults by developing a “background” seismic source zone surrounding Diablo Canyon. This background zone considers the possibility of low-angle (35 degrees) thrust or reverse faults with fault lengths of 50 kilometers (km) and magnitudes as high as moment-magnitude (Mw) 7.1. In its review of the SSC model, the NRC staff concluded that PG&E adequately implemented the SSHAC process and developed multiple alternative models for the uplift of the California Coast Ranges that are based on the modeling of geological and geophysical field data (ML16341C057). This conclusion was also supported by the SSHAC PRRP in its project closure letter, which states that “the data, models, and methods within the larger technical community have been properly evaluated, and the center, body, and range of the technically defensible interpretations have been appropriately represented in the SSC model” (appendix B of the PG&E 2015 SSC Report).

In addition to stating that PG&E neglected the potential for thrust faulting, the petition claims that PG&E did not use a hanging-wall term for the modeling of potential ground motions from the Los Osos and San Luis Bay reverse faults. The “hanging-wall” effect is the increase in ground motion at a site

located on top of the hanging wall side of the fault due to the site being located directly above the fault and closer to the rupture area. Based on its review of the SSHAC Level 3 GMC model (appendix C of the PG&E 2015 GMC Report), the NRC staff determined that a hanging-wall term was implemented and that this term increased the ground motion as expected (ML16341C057).

In summary, based on its previous review in 2016 of the seismic models developed by PG&E in response to the NRC’s 50.54(f) request, the PRB disagrees with the petitioners’ claims that thrust faulting was neglected by PG&E in its seismic source model and that a hanging-wall term was not implemented in the seismic ground motion model.

Concern 2: The January 2024 magnitude 7.5 earthquake centered in the Noto Peninsula (Japan), with an average slip of 2 meters on the fault, is analogous to future potential thrust mechanism earthquakes beneath Diablo Canyon. Based on the slip rate of the “inferred” offshore thrust fault proposed by the petitioners, which is located beneath the Irish Hills adjacent to Diablo Canyon, and the slip of the Noto earthquake, large ground motions from thrust fault earthquakes will occur, on average, every 715 years near the Diablo Canyon site.

Due to differences in the primary tectonic driving forces, the types of earthquake focal mechanisms, rate of seismic activity, and the lack of direct observations from geophysical surveys of a major “inferred” thrust fault off the coast of central California in the vicinity of Diablo Canyon, the PRB concludes that the January 2024 magnitude 7.5 Noto Peninsula earthquake is highly unlikely to be analogous to a future potential thrust mechanism earthquake beneath Diablo Canyon. The bases for the PRB conclusion are provided below.

The Noto Peninsula in Japan is located on the eastern margin of the Sea of Japan on the west coast of Honshu (largest island of Japan) and was formed as a result of back-arc rifting arising from subduction of the Pacific Plate beneath the Eurasian plate along the Japan Trench. Back-arc rifting is a process that occurs when one tectonic plate subducts beneath another, causing the overlying plate to stretch and thin, forming a back-arc basin. Subsequent to back-arc rifting during the Pliocene Epoch (3 million years ago), the tectonic regime along the west coast of Honshu shifted to compression, which reactivated older rift faults as reverse or thrust faults, causing uplift of former basins on the peninsula. The west coast of Honshu is now a convergent boundary between the Amurian (eastern edge of the Eurasian plate) and Okhotsk microplates, with convergence rates ranging from 14 to 16.5 mm/yr.³ Figure 2 shows the location of the Noto Peninsula relative to the boundary between the two converging microplates. Several large earthquakes and tsunamis have occurred along this convergent boundary between the two microplates including the most recent

Mw 7.5 earthquake on January 1, 2024. The 2024 Noto earthquake occurred on a shallow reverse or thrust fault with the rupture extending over 100 km in length from the southwestern portion of the Noto Peninsula to Sado Island along a southeast-dipping fault.⁴ Figure 3, from the U.S. Geological Survey’s (USGS) website for the 2024 Noto earthquake, shows the distribution of slip based on the finite fault model developed by USGS for the 2024 Noto earthquake.

According to the USGS model, slip occurred mostly beneath the peninsula with the zones of largest slip occurring to the southwest of the earthquake hypocenter and with earthquake rupture propagating from the peninsula to the seafloor.⁵

In contrast to the Noto Peninsula tectonic regime of compression, the tectonic setting for the region surrounding Diablo Canyon is a transform plate boundary that produces horizontal relative motions along strike slip faults with transpressional deformation. The tectonic setting for the central coastal California region is roughly triangular with the San Andreas fault on the east, the San Gregorio-San Simeon-Hosgri fault on the west, and the Western Transverse Ranges on the south.⁶ Figure 4, from Langenheim,⁷ shows this triangular region that bounds the California Coast Range with the numerous north-northwest striking faults that cut through Cenozoic Era (approximately 66 million years ago until today) sedimentary rocks that overlie older Mesozoic Era (approximately 252 to 66 million years ago) basement rocks such as the Franciscan Complex metamorphosed rock.

Although faulting is primarily strike-slip, steady uplift over at least the past 125,000 years has occurred along a 400-km long portion of the central California coast. Along the San Gregorio-Hosgri fault system, late Quaternary age (2.6 million years ago) to modern reverse fault slip rates are on the order of 10 to 30 percent of the strike-slip fault slip rates (O’Connell and Turner, 2023). Near Diablo Canyon, the San Luis Range forms the core of the San Luis-Pismo Block, a structural block that trends northwest to southeast. It is bounded by strike slip fault zones on the west (Hosgri fault) and east (Oceanic-West Husana fault), and by a series of reverse faults to the northeast (Los Osos fault) and southwest (Southwestern Boundary Zone including the San Luis Bay fault).

Geologic field studies⁸ show that the San Luis Range is uplifting at rates between 0.1

⁴ U.S. Geological Survey, “M 6.5–10 km NE of San Simeon, California.” Accessed December 1, 2024. <https://earthquake.usgs.gov/earthquakes/eventpage/us6000m0xl/executive>.

⁵ Id.

⁶ Langenheim, V.E., R.C. Jachens, R.W. Graymer, J.P. Colgan, C.M. Wentworth, and R.G. Stanley, “Fault geometry and cumulative offsets in the central Coast Ranges, California: Evidence for northward increasing slip along the San Gregorio-San Simeon-Hosgri fault,” *Lithosphere*, 5(1), 29–48, 2013.

⁷ Id.

⁸ Hanson, K.L., J.R. Wesling, W.R. Lettis, K.I. Kelson, and L. Mezger, “Correlation, Ages, and Uplift Rates of Quaternary Marine Terraces, South-Central California,” I.I. Alterman, R.B. McMullen,

³ Ito, C., T. Hiroaki, and O. Mako, “Estimation of convergence boundary location and velocity between tectonic plates in northern Hokkaido inferred by GNSS velocity data,” *Earth, Planets and Space*, 71.1: 1–8, 2019.

mm/yr to 0.2 mm/yr. According to PG&E's SSC model, slip rates near Diablo Canyon are estimated to be:

- Hosgri strike-slip fault: 1 to 2 mm/yr
- Los Osos reverse fault: 0.2 to 0.4 mm/yr
- San Luis Bay reverse fault: 0.1 to 0.3 mm/yr

For comparison, horizontal slip rates on the San Andreas fault in central California, located approximately 85 km northeast of Diablo Canyon, are estimated to be 25 to 36 mm/yr.

The tectonic differences between the Noto Peninsula and central coastal California are further demonstrated by the types of earthquakes in the two regions as evidenced by the focal mechanisms of the earthquakes. In the Noto Peninsula, the earthquake focal mechanisms are predominantly reverse, whereas in the vicinity of Diablo Canyon, the focal mechanisms are a mixture of strike-slip, reverse and oblique mechanisms. Figure 5 shows that the focal mechanisms for earthquakes near Diablo Canyon exhibit this mixture of different types of fault slip and orientations (PG&E 2015 SSC Report).

The other major difference between the Noto Peninsula in Japan and the Irish Hills in the western part of the San Luis Range in central coastal California are the historical earthquake recurrence rates. In addition to the 2024 Mw 7.5 Noto earthquake, several other large earthquakes have recently occurred beneath the Noto Peninsula, including an earthquake swarm for the last 3 years with the largest earthquake being a Mw 6.3 earthquake occurring on May 5, 2023. This earthquake swarm was preceded by the Mw 6.9 2007 Noto Hanto earthquake, which occurred at a depth of 10 km near the west coast of the Noto Peninsula. Similar to the Noto Peninsula, along central coastal California and in the Transverse Ranges there have been numerous earthquakes in the Mw 5 to Mw 7 range, including the 2003 Mw 6.5 San Simeon earthquake and the 1927 Mw 7.0 Lompoc earthquake. However, near Diablo Canyon, in the vicinity of San Luis Bay and the Irish Hills, McLaren and Savage⁹ document only two M5 events in 1913 and 1916. Figure 6, from the PG&E 2015 SSC Report, shows the locations of historical earthquakes in central coastal California. In summary, the historical rate for large earthquakes in the vicinity of Diablo Canyon is much smaller than the rate for the Noto Peninsula.

An additional issue with the existence of the petitioners' "inferred" offshore thrust fault capable of producing an Mw 7.5 earthquake similar to the 2024 Mw 7.5 Noto Peninsula earthquake is the lack of evidence from the recently acquired offshore and onshore two- and three-dimensional seismic reflection data and multibeam bathymetric data. Based on recent fault length versus magnitude relationships for reverse or thrust

faults, such as Thingbaijam et al.,¹⁰ the length of the "inferred" offshore thrust fault would need to be on the order of 70 to 100 km. In addition, the petitioners assert, as described below in Concern 3, that the slip rate of this "inferred" offshore thrust fault is between 2.0 to 2.8 mm/yr. That a thrust fault of this length and this relatively high activity rate would go undetected considering the numerous geophysical surveys and detailed studies of the regional seismicity (e.g., Hardebeck¹¹) is highly unlikely. However, to account for the possibility of earthquakes occurring on previously unidentified faults, PG&E developed a background seismic source zone for its SSC model that includes 18 virtual offshore and onshore faults with lengths of 50 km, magnitudes as high as Mw 7.1, and activity rates based on the regional seismicity catalog. The style of faulting for these virtual faults includes the possibility for both strike-slip and reverse or thrust faulting on low-angle (35 degrees) dipping faults. Figure 7, from the NRC staff's confirmatory analysis of PG&E's hazard models, shows the Hosgri, Shoreline, Los Osos, San Luis Bay, and the 18 virtual faults used to systematically account for the possibility of earthquakes on previously unidentified faults near Diablo Canyon (ML16341C057).

In summary, due to differences in the primary tectonic driving forces, the types of earthquake focal mechanisms, rate of seismic activity, and the lack of direct observations from geophysical surveys of a major thrust fault off the coast of central California in the vicinity of Diablo Canyon, the PRB concludes that the January 2024 magnitude 7.5 Noto Peninsula earthquake is highly unlikely to be analogous to a future potential thrust mechanism earthquake beneath Diablo Canyon.

Concern 3: PG&E's SSC model does not account for an "inferred" offshore thrust fault that has the potential for producing a magnitude 7.5 earthquake. Based on regional stratigraphy, gravity modeling and global positioning system (GPS) modeling, the total thrust faulting slip rate beneath the Irish Hills is between 2.0 to 2.8 mm/yr, which is not accounted for in PG&E's SSC model.

The PRB concludes that the stratigraphic profile, gravity anomalies, and GPS modeling used by the petitioners do not provide adequate evidence to support the existence of a major "inferred" offshore thrust fault that extends beneath the Irish Hills with a fault length of 70 to 100 km and a slip rate between 2.0 to 2.8 mm/yr. The bases for the PRB conclusion are provided below.

The petitioners assert that folding beneath the Irish Hills within the San Luis-Pismo block has been ongoing for the past 5 to 6 million years due to low-angle thrust faulting and that this has resulted in the uplift of the Irish Hills. Based on this hypothesis, the petitioners estimate that there has been 1.6 to

2.2 km of vertical throw of the Obispo Formation over the past 5 million years and that this vertical offset can be used to arrive at a "minimum total thrust" fault slip rate of 1.5 to 2.1 mm/yr beneath the Irish Hills. Figure 8, from the petitioners' July 17, 2024, presentation, shows the petitioners' interpretation of the location and geometry of the faults beneath the Irish Hills in red overlain on Figure 13–17 from the PG&E 2015 SSC Report. On Figure 13–17 from the PG&E 2015 SSC Report, the petitioners have redrawn each of the more steeply dipping faults to be at 25 degrees and added the "inferred" offshore thrust fault, which extends from just offshore towards the eastern edge of the San Luis-Pismo block. The petitioners also added a vertical line in the upper left to show throw of the Obispo Formation (designated Tmo), which is depicted as the light blue layer.

The Obispo Formation is a marine deposit made up of lavas and tuffs that is about 20 million years old. The Obispo Formation is present beneath several younger rock formations in the offshore and onshore Santa Maria Basins and the onshore Pismo Basin. From the Miocene to the early Pliocene (20 to 5 million years ago), normal faulting on the margins of these basins resulted in subsidence of the basins. The location, thickness, and offset of rock formations across these basins is highly uncertain, especially for the older formations such as the Obispo Formation. Therefore, the use of the vertical offset of the Obispo Formation across multiple basins to determine the slip rate on a previously unidentified "inferred" thrust fault beneath the Irish Hills is questionable. The petitioners relied on the use of vertical offset of a single rock layer (Obispo Formation) to support the hypothesis for low-angle thrust faulting beneath the Irish Hills at a slip rate nearly twice that of the strike-slip Hosgri fault, which is the most active fault near Diablo Canyon. In contrast, PG&E relied on several geologic studies performed in the region that use geomorphic evidence (i.e., study of landforms and landform evolution) to demonstrate that folding within the San Luis-Pismo block has ceased or continued at a very slow rate during the past half million years and that the current vertical deformation of the Irish Hills is associated with brittle failure and block uplift (Killeen,¹² and Lettis et al.¹³). Killeen states that, "marine terraces, and stream profiles show low, zero, to almost zero rates of Quaternary activity around the Pismo syncline," and "Data from paleo stream terrace gradients suggest that synclinal folding of the Pismo syncline has ceased, and that block uplift is the dominant style of deformation." The Pismo syncline forms the core of the San Luis-Pismo block. Lettis et al., state that elevations of dated marine terraces show rigid uplift at a near constant rate of 0.1 to 0.2 mm/yr during the late Quaternary in the northwestern part of

L.S. Cluff, and D.B. Slemmons, eds., Seismotectonics of the Central California Coast Range, Geological Society of America Special Paper 292. Pp. 45–72, 1994.

⁹ McLaren, M.K. and W.U. Savage. "Seismicity of South-central Coastal California: October 1987 through January 1997," Bulletin of the Seismological Society of America, Vol. 91, Issue 6., pp. 1,629–1,658, 2001.

¹⁰ Thingbaijam, K.K. S., P.M. Mai, and K. Goda, "New empirical earthquake source-scaling laws," Bulletin of the Seismological Society of America, 107(5), 2225–2246, 2017.

¹¹ Hardebeck, Jeanne L., "Seismotectonics and fault structure of the California Central Coast," Bulletin of the Seismological Society of America, 100.3: 1031–1050, 2010.

¹² Killeen, K. M., "Timing of folding and uplift of the Pismo syncline, San Luis Obispo County, California," University of Nevada, Reno, 1989.

¹³ Lettis, W.R., K.L. Hanson, J.R. Unruh, M. McLaren, W.U. Savage, and M.A. Keller, "Quaternary tectonic setting of south-central coastal California," US Geological Survey, 2004.

the block. This geologic evidence of block uplift of the Irish Hills is not consistent with the petitioners' hypothesis of ongoing low-angle faulting over the past 5 to 6 million years on an "inferred" offshore thrust fault. However, as stated previously, the SSC model developed by the SSHAC team includes multiple alternative fault geometries to capture the range of potential mechanisms driving uplift of the Irish Hills. One of these alternative fault geometry models (Southwest-Vergent) considers the possibility of thrust faulting as the primary driving force for the uplift of the Irish Hills.

To further support the slip rate estimate for the "inferred" offshore thrust faulting beneath Diablo Canyon, the petitioners propose the use of the Airy isostatic gravity model in which the Earth's crust floats on the denser mantle with variations in crustal thickness compensating for surface topography. Under this model, mountains have thicker crustal roots extending deeper into the mantle to balance the mass of the elevated terrain. This balancing mechanism is called isostasy, with a buoyant iceberg floating in water used as an analogy for the Earth's crust floating on the denser mantle below. Based on a negative isostatic gravity anomaly across the Irish Hills, the petitioners assert that "the topography of the Irish Hills is not just isostatically compensated, it is over-compensated by crustal thickening." The petitioners then use an "Airy ratio of 6:1" to calculate a slip rate of 2.8 mm/yr for the "inferred" thrust fault under the Irish Hills. An Airy ratio of 6:1 implies that for every 1 meter of vertical uplift of the Irish Hills, the crustal root beneath grows downward by 6 meters. The gravity profile that the petitioners use to support their claim of an extensive crustal root beneath the Irish Hills is from an American Geophysical Union meeting abstract¹⁴ that shows a gravity low over the Irish Hills along coastal California near Diablo Canyon. In a peer-reviewed paper published in the journal *Lithosphere*, Langenheim et al.¹⁵ provides their interpretation for the gravity low previously shown in the gravity map at the American Geophysical Union (AGU) meeting. Langenheim et al. combines gravity data together with aeromagnetic data to conclude that the gravity low across the Irish Hills originates from rock density contrasts within the upper 10 to 15 km of the crust rather than a deep extensive crustal root extending into the mantle. Specifically, the authors conclude that the gravity low across the Irish Hills is due to the density contrast between the low density ($D=2270$ kilograms per cubic meter (kg/m^3)) younger sedimentary rock that overlies the higher density ($D=2710$ kg/m^3)

older basement rock. This conclusion is also supported by the aeromagnetic data gathered over the Irish Hills that shows "fairly" magnetic rocks underlie the upper younger sedimentary rocks.¹⁶ Figure 9, from Langenheim et al.,¹⁷ shows the gravity and magnetic models across the Irish Hills along with a geologic cross-section that provides the density and magnetic susceptibility values for each of the rock units. The low likelihood of a massive crustal root beneath the Irish Hills is further supported by the conclusions of Lowry and Pérez-Gussinyé,¹⁸ which use a coherence analysis of gravity and topography to estimate an effective elastic thickness of 10 to 15 km along central coastal California. Under the simple Airy isostatic model, the crust has no flexural rigidity, and its effective elastic thickness is assumed to be zero.

Finally, the petitioners use modeling of GPS data in the region to develop a third independent estimate for the total thrust fault slip rate beneath the Irish Hills. This estimate is not based on actual GPS measurements near Diablo Canyon as only the direction of shortening or compression (N15°E) is known in the region near the site. Despite this limitation, the petitioners used deformation modeling to determine a shortening rate of 2.0 mm/yr across the Irish Hills. In their presentation to the NRC staff, the petitioners acknowledged that the deformation models rely on "low resolution" finite element grids in the Irish Hills region (ML24198A105). Despite the low resolution of the model grid, the petitioners allocate all the 2.0 mm/yr of shortening across the Irish Hills to the "inferred" offshore thrust fault to determine a total thrust fault slip rate of 2.2 mm/yr beneath the Irish Hills. The amount of shortening (2.0 mm/yr), as well as the allocation of all the shortening across the Irish Hills to a single "inferred" thrust fault, is questionable as there are other known active faults in the region that could accommodate the shortening.

The NRC staff's review of the PG&E 2015 SSC Report documented PG&E's consideration of GPS geodetic velocities useful for site-specific hazard estimation (ML16341C057). PG&E considered geodetic data and associated analyses to inform patterns and rates of deformation. Geodetic data and models were presented in 2012 at SSHAC Workshop 2 and in 2014 at SSHAC Workshop 3. The NRC staff's review concluded that the SSHAC team used available geodetic data to provide regional constraints on the slip budget available for the study region (ML16341C057). However, the SSHAC team did not use geodetic data and numerical deformation models to directly assign slip rates to specific faults or rupture sources. Instead, the SSHAC team used the numerous geologic field studies and data gathered from geophysical surveys to estimate fault slip rates. The decision to rely primarily on geologic and geophysical data for seismic source characterization and to use

GPS data as a secondary source of information to constrain the slip budget in the study region is justified because of the limited number of onshore GPS stations and the lack of offshore GPS stations in the region surrounding Diablo Canyon. Johnson et al.,¹⁹ provides an overview of the deformation modeling approaches and concludes that deformation models have not reached sufficient maturity and require further research to identify uncertainties associated with these models.

In summary, the PRB concludes that the stratigraphic profile, gravity anomalies, and GPS modeling used by the petitioners do not provide adequate evidence to support the existence of a major "inferred" offshore thrust fault that extends beneath the Irish Hills with a fault length of 70 to 100 km and a slip rate between 2.0 to 2.8 mm/yr.

Concern 4: Seismic core damage frequency, estimated by PG&E in 2018 to be 3×10^{-5} , should be 1.4×10^{-3} per year (about once every 715 years) based on this higher recurrence rate for thrust earthquakes.

Based on its assessment of the petitioners' concerns, described above in Concerns 1 to 3, the PRB concludes (1) that the seismic models developed by PG&E do not neglect the potential for thrust or reverse faulting beneath Diablo Canyon, (2) the tectonic setting along central coastal California differs substantially from that for the Noto Peninsula, and (3) the existence of a 70- to 100-km long "inferred" offshore thrust fault adjacent to Diablo Canyon with a slip rate between 2.0 to 2.8 mm/yr is highly unlikely. Therefore, the PRB concludes that a recurrence interval of 715 years for large ground motions from a Noto Peninsula type earthquake beneath Diablo Canyon and subsequent seismic core damage frequency (SCDF) of 1.4×10^{-3} per year are not credible values. The bases for the PRB conclusion are provided below.

Using an average slip of 2 m from the 2024 Mw 7.5 Noto Peninsula earthquake and slip rates ranging from 2.0 to 2.8 mm/yr for the "inferred" offshore thrust fault, the petitioners estimate a recurrence interval of between 715 to 1000 years for an analogous event beneath Diablo Canyon. Based on the assumption that peak ground accelerations would be extremely large from this earthquake at Diablo Canyon, the petitioners assume that seismic core damage would occur and, therefore, the SCDF should be 1.4×10^{-3} per year (1/715 year). This SCDF value is about 47 times higher than the SCDF value (3×10^{-5} per year) determined by PG&E (ML18120A201) from its seismic probabilistic risk assessment (SPRA), performed in response to the NRC's 50.54(f) request. The SPRA performed by PG&E used the hazard curves from its implementation of the SSHAC Level 3 SSC and GMC models in a probabilistic seismic hazard analysis (PSHA) to assess the frequency of seismic core damage at Diablo Canyon. The NRC staff reviewed the SPRA performed by PG&E and concluded that it adequately characterized

¹⁴ Langenheim, V.E., R.C. Jachens, R.W. Graymer, and C.M. Wentworth, "Implications for Fault and Basin Geometry in the Central California Coast Ranges from Preliminary Gravity and Magnetic Data," In AGU Fall Meeting Abstracts (Vol. 2008, pp. GP43B-0811), 2008.

¹⁵ Langenheim, V.E., R.C. Jachens, R.W. Graymer, J.P. Colgan, C.M. Wentworth, and R.G. Stanley, "Fault geometry and cumulative offsets in the central Coast Ranges, California: Evidence for northward increasing slip along the San Gregorio-San Simeon-Hosgri fault," *Lithosphere*, 5(1), 29–48, 2013.

¹⁶ Id.

¹⁷ Id.

¹⁸ Lowry, A. R., and M. Pérez-Gussinyé, "The role of crustal quartz in controlling Cordilleran deformation," *Nature*, 471(7338), 353–357, 2011.

¹⁹ Johnson, K.M., W.C. Hammond, and R.J. Weldon, "Review of geodetic and geologic deformation models for 2023 US National Seismic Hazard Model," *Bulletin of the Seismological Society of America*, 114(3), pp.1407–1436, 2024.

the risk of seismic damage for Diablo Canyon (ML18254A040). As previously stated in the NRC staff's response to Concern 1, based on its review of the SSC and GMC models, the NRC staff concluded that PG&E adequately captured the uncertainty in the data, models, and methods through use of the structured SSHAC approach (ML16341C057). Based on its assessment of the petitioners' concerns, described above in Concerns 1 to 3, the NRC staff concludes that (1) the seismic models developed by PG&E do not neglect the potential for thrust or reverse faulting beneath Diablo Canyon, (2) the tectonic setting along central coastal California differs substantially from that for the Noto Peninsula, and (3) the existence of a 70- to 100-km long "inferred" offshore thrust fault with a slip rate greater than 2 mm/yr is highly unlikely.

In summary, the PRB concludes that a recurrence interval of 715 years for a Noto Peninsula type earthquake beneath Diablo Canyon and subsequent SCDF of 1.4×10^3 per year are not credible values.

III. Conclusion

As a result of the PRB review of the petitioners' concerns, the NRC has denied the petitioners' request. The request to shut down Diablo Canyon is denied because the PRB concludes that (1) the seismic models developed by PG&E do not neglect the potential for thrust or reverse faulting beneath Diablo Canyon, (2) the tectonic setting along central coastal California differs substantially from that for the Noto Peninsula, (3) the existence of a 70- to 100 km long "inferred" offshore thrust fault adjacent to Diablo Canyon with a slip rate greater than 2 mm/yr is highly unlikely, and (4) the return period of 715 years for seismic core damage is not justified. Therefore, there is an insufficient basis on which to take enforcement action against PG&E, and the petitioners' request is denied.

In accordance with 10 CFR 2.206(c), a copy of this director's decision will be filed with the Secretary of the Commission for Commission review. As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 26th day of June 2025.

For the Nuclear Regulatory Commission.
/RA/

Michael X. Franovich, Deputy Director,
Office of Nuclear Reactor Regulation.

Attachment

Petitioners' Comments on Proposed Director's Decision and NRC Response

Attachment

Petitioners' Comments on Proposed Director's Decision and Nuclear Regulatory Commission Response

By letter dated May 15, 2025 (Agencywide Documents Access and Management System Accession No. ML25136A355), the petitioners provided comments to the U.S. Nuclear Regulatory Commission (NRC) on

the proposed director's decision regarding seismic core damage frequency for Diablo Canyon Nuclear Power Plant, Units 1 and 2 (Diablo Canyon), dated April 10, 2025 (ML24302A153).

The petitioners' comments do not alter the staff's conclusions in the proposed director's decision and therefore do not require modification of the final director's decision. This attachment provides the petitioners' comments on the proposed director's decision and the NRC's responses to the comments.

The NRC staff determined that most of the comments involve restatements of the petitioners' concerns or otherwise involved information considered in the development of the proposed director's decision. However, the NRC staff identified five of the petitioners' assertions associated with Concerns 1 and 3 in the proposed director's decision that are new or clarify the previous concerns. The NRC staff considered and addressed these assertions, as described below. Note that the discussion of Concern 1 in the director's decision briefly covers the regional tectonic setting encompassing Diablo Canyon, which provides useful context for the following responses.

Assertion 1 on Proposed Director's Decision Concern 3

"My model of the total thrust seismicity of the Irish Hills does not depend on the existence of the Inferred Coastline thrust; the same total could be met by combined activity on the Los Osos thrust, the San Luis Bay thrust, and other unmapped and unmodelled thrust faults in the basement Franciscan Complex," and "I have proposed that the San Luis Bay thrust fault continues northwest to connect to the Hosgri fault as a blind thrust fault ('Inferred Coastline thrust'), and that these two segments would naturally rupture together in a large event."

Response to Assertion 1

The Senior Seismic Hazard Analysis Committee (SSHAC) Seismic Source Characterization (SSC) model characterizes (section 7.0 of Pacific Gas & Electric Company's (PG&E) 2015 SSC Report)²⁰ a number of different complex rupture events under the three fault geometry models (FGMs). These complex rupture events capture the potential for larger magnitude and longer ruptures that have historical analogs in actual earthquakes. Under the Southwest-Vergent (SW) FGM, rupture source SW-04 models an earthquake that involves both the San Luis Bay (SLB) fault and the Hosgri fault (table 9-5 of the PG&E 2015 SSC Report). Rupture source SW-04 is assigned a combined set of magnitudes (table 10-11 of the PG&E 2015 SSC Report) for a primary rupture on the Hosgri fault (M6.9, M7.5, M8.0) and a secondary rupture on the SLB fault (M6.4); the rupture source is also

allocated a portion of the total slip rate (section 9.3 of the PG&E 2015 SSC Report). Most of this complex rupture source entails a near-vertical strike-slip rupture on the Hosgri fault with subsequent reverse faulting on the much shorter SLB fault. In summary, the FGMs developed as part of the SSC model include a rupture event that includes both the Hosgri and SLB faults, which the petitioners assert is the "Inferred Coastline thrust" even though the SSC model captures the majority of this rupture event as a strike-slip earthquake on a near-vertical fault.

Assertion 2 (on Proposed Director's Decision Concern 3.)

Neither the PG&E's 2015 Level 3 SSHAC SSC Report nor the 2024 Updated Level 1 SSHAC SSC Report mentions the rate of crustal shortening (compression); the reports only give the direction, and PG&E is attempting to "divert attention" from this "damning evidence."

Response to Assertion 2

Assertion (2) claims that PG&E has attempted to obfuscate the rate of shortening across the Irish Hills. However, the SW FGM captures the potential for crustal shortening across the Irish Hills in which uplift is accommodated by more gently dipping reverse (or thrust) faults. In addition, Page ES-3 within the Executive Summary of the PG&E 2015 SSC Report states the following:

Geodetic data and inversions of earthquake focal mechanisms show that the contemporary tectonic setting of the San Luis Range and surroundings is one of transpressional dextral shear with localized areas of crustal shortening and thickening such as within the Irish Hills near Diablo Canyon. Geodetic data constrain regional crustal velocities in the vicinity of Diablo Canyon to 1-3 mm/yr [millimeters per year] of dextral shear subparallel to the San Andreas fault zone, with comparable rates of crustal shortening permissible orthogonal to the plate boundary west of the San Andreas fault zone [emphasis added].

Section 5.2 of the PG&E 2024 Updated SSC Report (ML24298A234) describes the literature review performed by the SSHAC team to evaluate recent data and models not included in the 2015 PG&E SSC model. Specifically, the SSHAC team reviewed the five Western United States Earthquake Rupture Forecast 2023 deformation models, which developed fault slip rates based, in part, on global positioning system (GPS) geodetic data. Table 5-11 in the updated PG&E 2024 Updated SSC Report compares the fault slip rates developed by the 2015 PG&E SSC model with the 2023 GPS based fault slip rates from the deformation models (including the Shen-Bird model) showing general agreement between the older and newer estimates for the fault slip rates for the primary faults near Diablo Canyon. In summary, PG&E used GPS data to inform the development of the 2015 PG&E SSC model and to assess the continued viability of the PG&E 2024 Updated SSC model, and the analysis considered the potential for crustal shortening.

²⁰ In 2015, PG&E developed the Diablo Canyon seismic source characterization (SSC) model and documented it in a report, which is referred to herein as the PG&E 2015 SSC Report. This report is available on the PG&E website <https://www.pge.com/en/about/pge-systems/nuclear-power/seismic-safety-at-diablo-canyon.html#tabs-2967acbbcb-item-1b0b13e766-tab>.

Assertion 3 (on Proposed Director's Decision Concern 1)

"In fact, there is no geologic or geophysical evidence for strike-slip tectonics within the Irish Hills," and "The SSW–NNE direction of compressive stress (shown by the World Stress Map dataset) and of compressive strain-rate (shown by relative GPS velocities) is incompatible with strike-slip and indicates pure thrusting."

Response to Assertion 3

Assertion (3) states that there is no geological or geophysical evidence for strike-slip faulting beneath the Irish Hills and that only thrust faulting is possible. The petitioners use this assertion to support the use of the Noto Peninsula as an analog to the local tectonic setting for Diablo Canyon. However, this assertion is not supported by the earthquake focal mechanisms shown in Figures 5–24 and 13–12 of the PG&E 2015 SSC Report, which clearly show a mix of strike-slip and thrust faulting events. In summary, there are numerous strike-slip mechanisms onshore within the Irish Hills consistent with the general result that focal mechanisms in south-central coastal California are a mix of reverse and strike-slip consistent with dextral transpressional deformation and that the tectonic setting for the Noto Peninsula differs from that of coastal California near Diablo Canyon.

Assertion 4 (on Proposed Director's Decision Concern 3)

The Local Area Source (LAS) zone modeled by PG&E to capture the potential for earthquakes occurring on faults that were not already characterized in its Seismic Source Characterization (SSC) model has three major flaws:

- (a) the recurrence rate for earthquakes within LAS zone is based on seismicity catalog rather than moment rates from tectonic deformation models,
- (b) faulting in the LAS zone should not include the possibility for strike-slip events, and
- (c) the maximum magnitude of the LAS zone should range from M [Magnitude] 8.07 to M8.67.

Response to Assertion 4

Assertion (4a) states that the recurrence rates for the LAS zone should be based on tectonic deformation models rather than seismicity. The use of local and regional seismicity catalogs to determine earthquake recurrence rates for seismic areal source zones is consistent with the guidance in American Nuclear Society (ANS)/American National Standards Institute 2.29, "Probabilistic Seismic Hazard Analysis," and is followed for characterizing the seismic hazards for both critical facilities and commercial facilities. Assertion (4b) states that strike-slip faulting is not possible within the Irish Hills, but this assertion is contradicted by earthquake focal mechanisms showing a mix of strike-slip and reverse faulting onshore within the Irish Hills (see the response to Assertion 3). Assertion (4c) states that the maximum magnitude for the LAS zone should be greater than M8. As described in the response to Assertion (1),

the FGMs that constitute PG&E's SSC model include multiple large complex ruptures on adjoining faults that capture the potential for M8 plus events. Rather than duplicating this set of complex large-magnitude ruptures, the purpose of the LAS zone is to characterize the potential for moderate to large (M6.6 to M7.1) earthquakes on previously unmapped faults. Similarly, the maximum magnitudes for the background zone developed by the U.S. Geological Survey (USGS) National Seismic Hazard Model, which encompasses Diablo Canyon range from M6.5 to M7.0. In addition, the use of regional seismicity catalogs to develop the recurrence rate for earthquakes within areal source zones is consistent with the standard stationarity assumption made for the probabilistic seismic hazard analysis that seismic hazard at a location remains constant over relatively shorter time periods (e.g., 50 years).

Assertion 5 (on Proposed Director's Decision Concern 3)

"Given that Langenheim was also first-author on the high-resolution isostatic gravity anomaly map that we now rely on it is reasonable to assume that he [sic] incorporated his [sic] knowledge of low surface rock densities into that isostatic correction." Specifically, this assertion states that the gravity modeling by Langenheim et al.²¹ incorporates the low surface rock densities into the isostatic correction to develop the isostatic residual gravity map; the petitioner asserts that therefore, the gravity low across the Pismo syncline, which underlies the Irish Hills, is due to crustal thickening with an Airy ratio of 6:1.

Response to Assertion 5

Assertion (5) postulates that the density contrast between the lower density (D) ($D = 2,270$ kilograms per cubic meter (kg/m^3)) younger sedimentary rock that overlies the higher density ($D = 2,710$ kg/m^3) older basement rock has been accounted for in the isostatic correction performed by Langenheim et al. (2013). The petitioner therefore attributes the gravity low across the Pismo syncline to crustal thickening with an Airy ratio of 6:1. However, the petitioners' conclusion is not supported by the analysis in the referenced paper. Langenheim et al. (2013) state that the gravity measurements used to create an isostatic residual gravity map were based on an isostatic correction with a sea-level crustal thickness of 25 kilometers (km), a crustal density of 2670 kg/m^3 , and a mantle-crust density contrast of 400 kg/m^3 to remove the long-wavelength effect of deep crustal and/or upper mantle masses that isostatically support regional topography. Regarding the gravity low across the Pismo syncline along profile F–F', Langenheim et al. (2013) state that "Lastly, model F–F' highlights structures that bound the Irish Hills. The model crosses the Pismo syncline, characterized by a gravity low

²¹ Langenheim, V.E., R.C. Jachens, R.W. Graymer, J.P. Colgan, C.M. Wentworth, and R.G. Stanley, "Fault geometry and cumulative offsets in the central Coast Ranges, California: Evidence for northward increasing slip along the San Gregorio–San Simeon–Hosgri fault," *Lithosphere*, 5(1), 29–48, 2013.

originating in Miocene and younger sedimentary rocks [emphasis added]." This statement by Langenheim et al. (2013) clarifies that shallow, low density material is the cause of the gravity low across the Irish Hills, and that the gravity low is not the result of a crustal root. In addition, the rapid change in gravity anomaly over a relatively short distance (10 to 15 km) from negative to positive values supports this interpretation. In addition, the SSC model developed by PG&E was informed by both gravity and magnetic field data to model the crustal structure in the Diablo Canyon area (see section 2.3.2 of the PG&E 2015 SSC Report).

Conclusion

In conclusion, based on the PRB review of the petitioners' comments on the proposed director's decision, the PRB determined that no further actions were needed, and the NRC made no changes to the final director's decision as a result of the petitioners' assertions. The SSC model developed by PG&E in response to the NRC's request under Title 10 of the *Code of Federal Regulations* (10 CFR) 50.54(f) captures multiple interpretations of the local geologic setting through the use of alternative FGMs. The SSC model is based on multiple geological and geophysical field measurements and was developed, as specified in the 10 CFR 50.54(f) request, using the SSHAC approach, as described in NUREG–2213, "Updated Implementation Guidelines for SSHAC Hazard Studies," issued October 2018 (ML18282A082). The SSHAC approach focuses on two critical activities: evaluation and integration. The evaluation activity is defined as an assessment of the complete set of data, models, and methods that are relevant to the hazard analysis, and the integration activity is the development of an SSC model that captures all technically defensible interpretations, as informed by the evaluation activity. A key element of the SSHAC approach is participatory peer review from an outside panel to ensure that the full range of data, models, and methods is considered in the evaluation phase and that all technically defensible interpretations are integrated into the SSC model to capture the uncertainty in seismic hazard as required by 10 CFR 100.23, "Geologic and seismic siting criteria." Independent panels of experts in coastal California geology and seismology reviewed and approved both PG&E's 2015 SSC model and its 2024 update (ML24298A234).

In summary, the PRB concludes that the petitioners' concerns, including the assertions in its comments on the proposed director's decision, are either (1) already incorporated as one of the alternative scenarios in the SSC model, (2) technically inconsistent with available information, or (3) inconsistent with standard approaches for the seismic hazard characterization for a nuclear power plant. Therefore, the PRB determined that no further actions were needed, and the NRC made no changes to the final director's decision as a result of the petitioners' comments.

[FR Doc. 2025–12432 Filed 7–2–25; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2024–430; CP2024–699; K2025–27; K2025–217; MC2025–1550 and K2025–1544; MC2025–1546 and K2025–1540; MC2025–1549 and K2025–1543]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 9, 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):* CP2024–430; *Filing Title:* USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 157, with Materials Filed Under Seal; *Filing Acceptance Date:* June 30, 2025; *Filing Authority:* 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative:* Gregory Stanton; *Comments Due:* July 9, 2025.

2. *Docket No(s):* CP2024–699; *Filing Title:* USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 344, with Materials Filed Under Seal; *Filing Acceptance*

Date: June 30, 2025; *Filing Authority:* 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative:* Almaroof Agoro; *Comments Due:* July 9, 2025.

3. *Docket No(s):* K2025–27; *Filing Title:* USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 440, with Materials Filed Under Seal; *Filing Acceptance Date:* June 30, 2025; *Filing Authority:* 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative:* Cherry Yao; *Comments Due:* July 9, 2025.

4. *Docket No(s):* K2025–217; *Filing Title:* USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 580, with Materials Filed Under Seal; *Filing Acceptance Date:* June 30, 2025; *Filing Authority:* 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative:* Cherry Yao; *Comments Due:* July 9, 2025.

5. *Docket No(s):* MC2025–1550 and K2025–1544; *Filing Title:* USPS Request to Add Priority Mail Contract 900 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 30, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* July 9, 2025.

6. *Docket No(s):* MC2025–1546 and K2025–1540; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 75 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 30, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Katalin Clendenin; *Comments Due:* July 9, 2025.

7. *Docket No(s):* MC2025–1549 and K2025–1543; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 794 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 30, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Kenneth Moeller; *Comments Due:* July 9, 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. 2025–12485 Filed 7–2–25; 8:45 am]

BILLING CODE 7710-FW-P

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).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0108]

Proposed Collection; Comment Request; Revision: Rule 14f–1—Change in Majority of Directors

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (“PRA”), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for a revision with extension and approval. The Commission plans to request approval from OMB to designate this existing collection of information (OMB Control No. 3235–0108) as a “common form” for purposes of PRA submissions¹ because the Board of Governors of the Federal Reserve System uses this information collection (under OMB Control No. 7100–0091).

Under Securities Exchange Act of 1934 (“Exchange Act”) Rule 14f–1 (17 CFR 240.14f–1), if, pursuant to any arrangement or understanding with a person or persons acquiring securities of an issuer in a transaction subject to Section 13(d) or 14(d) of the Exchange Act, persons constituting a majority of the issuer’s directors are to be elected or designated as issuer directors, otherwise than at a meeting of security holders, then, not less than 10 days prior to the

date any such person takes office as a director, or such shorter period as the Commission may authorize, the issuer must file with the Commission and transmit to all holders of record of securities of the issuer information, primarily concerning prospective new directors of the issuer, required by Rule 14f–1. We estimate that it takes approximately 18 burden hours to provide the information required under Rule 14f–1 and that the information is filed by approximately 21 respondents annually for a total annual reporting burden of 378 hours (18 hours per response × 21 responses).

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.

Written comments are invited on: (a) whether this 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 imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by September 2, 2025. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: July 1, 2025.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025–12496 Filed 7–2–25; 8:45 am]

BILLING CODE 8011–01–P

¹ See ROCIS PRA Module User Guide v. 8.2, at 110–111 (Mar. 2024), available at <https://www.rocis.gov/rocis/viewResources.do> (“A ‘common form’ is an information collection that can be used by two or more agencies, or government-wide, for the same purpose. The Common Forms Module [in ROCIS] allows a ‘host’ agency to obtain [OMB] approval of an information collection for use by one or more ‘using’ agencies. After OMB grants approval, any prospective using agency that seeks to collect identical information for the same purpose can obtain approval to use the ‘common form’ by providing its agency-specific information to OMB (e.g., burden estimates and number of respondents). The host agency will indicate in the **Federal Register** notices that it is requesting approval of a common form and, if known, identify other agencies that may use the information collection. Both the **Federal Register** notices and the ICR should account only for the burden imposed by the host agency’s use of the common form. Once the host agency has received approval from OMB, any agency will be able to request OMB approval for its use of the common form in ROCIS by providing its agency specific information to OMB (e.g., burden estimates and number of respondents). Additional public notice by those agencies will not be required.”).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–103352; File No. SR-CboeBZX–2025–045]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the Osprey Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

June 30, 2025.

I. Introduction

On March 14, 2025, Cboe BZX Exchange, Inc. (“BZX”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to list and trade shares (“Shares”) of the Osprey Bitcoin Trust (“Trust”) under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. On March 25, 2025, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on April 2, 2025.³

On May 14, 2025, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ This order institutes proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

II. Summary of the Proposal, as Modified by Amendment No. 1

As described in more detail in the Notice,⁷ the Exchange proposes to list

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 102736 (Mar. 27, 2025), 90 FR 14493 (“Notice”). The Commission has received no comments on the proposed rule change.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 103045, 90 FR 21528 (May 20, 2025). The Commission designated July 1, 2025, as the date by which the Commission shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change, as modified by Amendment No. 1.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Notice, *supra* note 3.

and trade the Shares of the Trust under BZX Rule 14.11(e)(4), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.

According to the Exchange, the investment objective of the Trust is for the Shares to reflect the performance of bitcoin as measured by reference to the Coin Metrics Coin Metrics' Bletchley Indexes Bitcoin Index ("Index"),⁸ before payment of the Trust's expenses and other liabilities.⁹ In seeking to achieve its investment objective, the Trust will hold only bitcoin, cash, and cash equivalents.¹⁰ The value of the bitcoin held by the Trust is determined based on the estimated fair market value price for bitcoin, reflecting the execution price of bitcoin on its principal market as determined by Lukka Inc., an independent third-party digital asset data company.¹¹ When the Trust sells or redeems its Shares, it will do so in cash transactions with authorized participants in blocks of 50,000 Shares.¹²

III. Proceedings To Determine Whether To Approve or Disapprove SR–CboeBZX–2025–045 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act¹³ to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide comments on the proposed rule change, as modified by Amendment No. 1.

Pursuant to Section 19(b)(2)(B) of the Act,¹⁴ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a

national securities exchange be "designed to prevent fraudulent and manipulative acts and practices" and "to protect investors and the public interest."¹⁵

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on whether the proposal to list and trade Shares of the Trust, which would hold bitcoin, is designed to prevent fraudulent and manipulative acts and practices or raises any new or novel concerns not previously contemplated by the Commission.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal, as modified by Amendment No. 1, is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.¹⁶

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved by July 24, 2025. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 7, 2025.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–CboeBZX–2025–045 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2025–045. 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–CboeBZX–2025–045 and should be submitted on or before July 24, 2025. Rebuttal comments should be submitted by August 7, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

J. Matthew DeLesDerenier,

Deputy Secretary.

[FR Doc. 2025–12423 Filed 7–2–25; 8:45 am]

BILLING CODE 8011–01–P

⁸ The Index is a U.S. dollar-denominated composite reference rate for the price of bitcoin and is determined by Coin Metrics, Inc. See *id.* at 14495.

⁹ See *id.* at 14494–95. Osprey Funds LLC is the sponsor of the Trust, CSC Delaware Trust Company is the trustee, and Coinbase Custody Trust Company, LLC will be responsible for custody of the Trust's bitcoin. See *id.* at 14493–94.

¹⁰ See *id.* at 14495.

¹¹ See *id.*

¹² See *id.* at 14496.

¹³ 15 U.S.C. 78s(b)(2)(B).

¹⁴ *Id.*

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

¹⁷ 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–103357; File No. SR–NASDAQ–2025–037]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 5703 To Permit the Generic Listing and Trading of Multi-Class Exchange-Traded Fund Shares

June 30, 2025.

On May 6, 2025, The Nasdaq Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to adopt Nasdaq Rule 5703 to permit the generic listing and trading of Multi-Class Exchange-Traded Fund Shares. The proposed rule change was published for comment in the **Federal Register** on May 27, 2025.³

Section 19(b)(2) of the Act⁴ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is July 11, 2025. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates August 25, 2025, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to

disapprove, the proposed rule change (File No. SR–NASDAQ–2025–037).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2025–12427 Filed 7–2–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–103349; File No. SR–NYSEARCA–2025–25]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend the Rule Governing the Listing and Trading of Shares of the Bitwise Ethereum ETF To Permit Staking Under Rule 8.201–E (Commodity-Based Trust Shares)

June 30, 2025.

I. Introduction

On March 20, 2025, NYSE Arca, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to amend the rules governing the listing and trading of shares (“Shares”) of the Bitwise Ethereum ETF (“Trust”) under Rule 8.201–E. On March 24, 2025, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on April 7, 2025.³

On May 20, 2025, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ This order institutes proceedings under Section 19(b)(2)(B) of

the Act⁶ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

II. Summary of the Proposal

As described in more detail in the Notice,⁷ the Exchange proposes to amend the rule governing the listing and trading of the Shares of the Trust under Rule 8.201–E.⁸ Specifically, the Exchange proposes to amend certain representations regarding the Trust in order to permit staking of the ether held by the Trust. According to the Exchange, except for the proposed amendments, all other representations relied upon by the Commission in approving the listing and trading of the Shares of the Trust will remain unchanged and will continue to constitute continued listing requirements.

III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEARCA–2025–25 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁹ to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,¹⁰ the Commission is providing notice of the grounds for disapproval under consideration. As described above, the Exchange proposes to allow staking of the Trust’s ether. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change’s consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of

⁶ 17 CFR 200.30–3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 102754 (Apr. 1, 2025), 90 FR 15023 (“Notice”).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 103086, 90 FR 22368 (May 27, 2025). The Commission designated July 6, 2025, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Notice, *supra* note 3.

⁸ Rule 8.201–E governs the listing and trading of Commodity-Based Trust Shares. The Commission approved the Exchange’s proposal to list and trade the Shares of the Trust on May 23, 2024. See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024).

⁹ 15 U.S.C. 78s(b)(2)(B).

¹⁰ *Id.*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 103072 (May 20, 2025), 90 FR 22373. The Commission has received no comments regarding the proposed rule change.

⁴ 15 U.S.C. 78s(b)(2).

⁵ 15 U.S.C. 78s(b)(2).

trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.¹¹

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.¹²

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by July 24, 2025. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 7, 2025.

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-NYSEARCA-2025-25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-NYSEARCA-2025-25. This file number should be included on the

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's 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-NYSEARCA-2025-25 and should be submitted on or before July 24, 2025. Rebuttal comments should be submitted by August 7, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2025-12422 Filed 7-2-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103355; File No. SR-NASDAQ-2025-034]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the 21Shares Dogecoin ETF Under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)

June 30, 2025.

On April 28, 2025, The Nasdaq Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission

("Commission"), pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 ("Act") ² and Rule 19b-4 thereunder, ³ a proposed rule change to list and trade shares of the 21Shares Dogecoin ETF under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares). The proposed rule change was published for comment in the **Federal Register** on May 19, 2025.⁴

Section 19(b)(2) of the Act ⁵ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is July 3, 2025. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, ⁶ designates August 17, 2025, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NASDAQ-2025-034).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2025-12425 Filed 7-2-25; 8:45 am]

BILLING CODE 8011-01-P

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 103032 (May 13, 2025), 90 FR 21355. Comments received on the proposed rule change are available at: <https://www.sec.gov/comments/sr-nasdaq-2025-034/srnasdaq2025034.htm>.

⁵ 15 U.S.C. 78s(b)(2).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(31).

¹¹ 15 U.S.C. 78f(b)(5).

¹² Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

¹³ 17 CFR 200.30-3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–103356; File No. SR–NYSE–2025–21]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.18 To Effectuate Amendments to Second Restatement of the CTA Plan and the Restated CQ Plan

June 30, 2025.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that on June 17, 2025, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.18 (“Halts”) to effectuate amendments to Second Restatement of the CTA Plan and the Restated CQ Plan (together, the “Amended CTA Plan”). The Exchange proposes to merge current Rule 123D (Halts in Trading) into the proposed revised Rule 7.18. In addition, the Exchange proposes to make conforming changes to Rules 1.1 and 7.11. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

New York Stock Exchange LLC (“NYSE” or the “Exchange”) proposes to amend Rule 7.18 (“Halts”) to effectuate amendments to Second Restatement of the CTA Plan and the Restated CQ Plan (together, the “Amended CTA Plan”).⁴ The proposed changes would amend the rule’s categories of regulatory and operational halts, improve the rule’s clarity, and adopt defined terms from the Amended CTA Plan.⁵ The Exchange proposes to merge current Rule 123D (Halts in Trading) into the proposed revised Rule 7.18. In addition, the Exchange proposes to make conforming changes to Rules 1.1 and 7.11.

Background

The Exchange has been working with other SROs to establish common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues. These common standards are designed to ensure that events that

might impact multiple exchanges are handled in a consistent manner that is transparent. The Exchange believes that implementation of these common standards will assist the SROs in maintaining fair and orderly markets. Notwithstanding the development of these common standards, the Exchange will retain discretion in certain instances as to whether and how to handle halts, as is discussed below.

Every U.S.-listed equity security has its primary listing on a specific stock exchange (its “Primary Listing Market”)⁶ that is responsible for a number of regulatory functions. These include confirming that the security continues to meet the exchange’s listing standards, monitoring trading in that security, and taking action to halt trading in the security when necessary to protect investors and to ensure and fair and orderly market. While these core responsibilities remain with the Primary Listing Market, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security or in the over-the-counter market, regulated by the Financial Industry Regulatory Authority, Inc. (“FINRA”). The exchanges and FINRA are responsible for monitoring activity on the markets over which they have oversight, but also must abide by the regulatory decisions made by the Primary Listing Market. For example, a venue trading a security pursuant to unlisted trading privileges must halt trading in that security during a Regulatory Halt, which is a defined term under the proposed rules,⁷ and may only trade the security once the Primary Listing Market has cleared the security to resume trading.

All SROs have rules that require them to honor a Regulatory Halt. The Exchange, as a Primary Listing Market, also has rules outlining the circumstances in which it will halt trading in its listed securities, including situations in which such halts are for regulatory purposes—and therefore are applicable to all markets trading the security—or for operational purposes, which would not halt trading in other markets.⁸ However, the trading halt rules are not consistent across SROs.

⁶ The Exchange proposes to incorporate into Rule 7.18 the same definition of “Primary Listing Market” as appears in Section XI(a)(i)(H) of the Amended CTA Plan: “Primary Listing Market” means the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.”

⁷ See proposed Rule 7.18(a)(11).

⁸ See generally current Rules 7.13, 7.18, and 123D.

⁴ On February 3, 2021, the CTA/CQ Plan participants (“Participants”) filed Amendment 36 to the Second Restatement of the CTA Plan and Amendment 27 to the Restated CQ Plan, to revise provisions governing regulatory and operational halts. See Letter from Robert Books, Chair, CTA/CQ Operating Committee, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated February 3, 2021. The SEC approved the amendments on May 28, 2021 (the “Amended CTA Plan”). See Securities Exchange Act Release No. 92070 (May 28, 2021), 86 FR 29849 (June 3, 2021) (SR–CTA/CQ–2021–01). The SEC also approved similar amendments to the Nasdaq UTP Plan. See Securities Exchange Act Release No. 92071 (May 28, 2021), 86 FR 29846 (June 3, 2021) (S7–24–89) (the “Amended Nasdaq UTP Plan”). The Amended CTA Plan and the Amended Nasdaq UTP Plan include provisions requiring Participant self-regulatory organizations (“SROs”) to honor a Regulatory Halt declared by the Primary Listing Market. The provisions in the Amended CTA Plan and the Amended Nasdaq UTP Plan include provisions similar to the changes proposed by the Exchange in this filing.

⁵ The Exchange notes that this proposed rule change is based on a similar rule change filed by the Nasdaq Stock Market LLC (“Nasdaq”) that was approved by the SEC in 2022. See Securities Exchange Act Release No. 95069 (June 8, 2022), 87 FR 36018 (June 14, 2022) (SR–NASDAQ–2022–017). In addition, the Exchange’s affiliate exchange, NYSE American LLC (“NYSE American”), has filed a similar rule change. See Securities Exchange Act Release No. 102810 (April 10, 2025), 90 FR 16041 (April 16, 2025) (SR–NYSEAMER–2025–19). Several exchanges that do not operate Primary Listing Markets have also filed similar rule changes. See Securities Exchange Act Release Nos. 96574 (December 22, 2022), 87 FR 80213 (December 29, 2022) (SR–Phlx–2022–49); 97093 (March 9, 2023), 88 FR 16045 (March 15, 2023) (SR–PEARL–2023–11); and 97824 (June 29, 2023), 88 FR 43159 (July 6, 2023) (SR–MEMX–2023–11).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

Consequently, events that might constitute a Regulatory Halt for securities listed on one Primary Listing Market theoretically might not be grounds for a Regulatory Halt in securities listed on another Primary Listing Market. Such inconsistency among exchange rules could lead to confusion in circumstances such as a cross-market event, including, for example, “Extraordinary Market Activity.”⁹

While the Exchange’s existing rules generally have worked as intended to afford the Exchange authority to initiate a Regulatory Halt in appropriate cases, the Exchange proposes to amend its rules to conform to the Amended CTA Plan.

The complex and interconnected market structure of the United States relies on consolidated market data processed and disseminated by the SIPs. In certain circumstances, the loss of this information or issues with the accuracy or timeliness of the information might cause a Primary Listing Market to determine that a trading halt is appropriate. The Exchange believes that providing further details in its rules will assist market participants in better understanding how various scenarios could be handled.

As noted above, the proposed changes that would be uniformly applied across SROs are those that relate to cross-market events as set forth in the Amended CTA Plan. However, there will still be situations where personnel at the Primary Listing Market will need to determine the impact of the cross-market event on the securities listed on its market and use discretion in deciding whether to halt trading in some or all securities during a cross-market event that affects securities listed on different markets. In making a determination as to whether to declare a Regulatory Halt, the Primary Listing Market will consider the totality of information available concerning the severity of the issue, its likely duration, and its potential impact on Member Firms¹⁰ and other market participants, and it will make a good-faith determination that the criteria for declaring a Regulatory Halt have been satisfied and that a Regulatory Halt is appropriate. Moreover, the Primary

Listing Market will consult, if feasible, with the affected Trading Center(s), other Plan Participants, or the Processor, as applicable, regarding the scope of the issue and what steps are being taken to address the issue. Once a Regulatory Halt has been declared, the Primary Listing Market would continue to evaluate the circumstances to determine when trading may resume in accordance with its rules.

While the Exchange and the other SROs intend to harmonize certain aspects of their trading halt rules, other elements of the rules will continue to be unique to each market. The Exchange believes that this is appropriate to reflect different products listed or traded on each market and the unique relationship of the Primary Listing Market to its listed companies. It is anticipated that these unique rules would most likely be invoked in cases where the Primary Listing Market’s decision on whether to institute a Regulatory Halt turns on specific information related to an individual security or issuer, such as the dissemination of news and the issuer’s ability to meet listing standards, rather than broader market issue stemming from Extraordinary Market Activity or the loss of consolidated market data from a SIP.

The Exchange will implement the changes proposed herein in conjunction with other SROs implementing the necessary rule changes. The Exchange will publish a trader notice at least 30 business days before implementing the proposed changes.

Proposed Exchange Rule Changes

The Exchange proposes to amend Rule 7.18 to add new definitions and proposed categories of regulatory and operational halts that are designed to address the type of market-wide events described in the Amended CTA Plan. Amended Rule 7.18 would also cross-reference the Exchange’s current halt authority, which is located in current Rules 7.18 and 123D and in the Listed Company Manual. The Exchange also proposes to rename Rule 7.18 from “Halts” to “Trading Halts.”

Definitions

Amended Rule 7.18(a) would set forth definitions, many of which cross-reference definitions in the Amended CTA Plan.¹¹ The proposed definitions

would apply to both the proposed new halt authority as well as the Exchange’s halt authority under its current rules.

First, the Exchange proposes to add the definition of “*Primary Listing Market*”¹² to Rule 7.18, which will have the same meaning as in the Amended CTA Plan, Section XI(a)(i)(H). As is currently the case under the Exchange’s rules and under the Amended CTA Plan, all Regulatory Halt decisions are made by the market on which the security has its primary listing. This reflects the regulatory responsibility that the Primary Listing Market has for fair and orderly trading in the securities that list on its market and its direct access to its listed companies, which are required to advise it of certain events and maintain lines of communication with the Primary Listing Market. The proposed definition makes clear that if a security is listed on more than one market (a dually-listed security), the Primary Listing Market means the exchange on which the security has been listed the longest. This provision matches language used in the definition of “*Primary Listing Exchange*” in the Limit Up-Limit Down Plan and will avoid conflict in the event of dually-listed securities.

Second, the Exchange proposes to add a definition for the term “*Extraordinary Market Activity*,”¹³ which would be a new definition for the Exchange. The Exchange proposes that this term would have the same meaning as in the Amended CTA Plan:

“*Extraordinary Market Activity*” means a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, transaction

⁹ The proposed definition of Extraordinary Market Activity encompasses a market event that affects multiple markets. See Amended CTA Plan, Section XI(a)(i)(A), which defines “Extraordinary Market Activity.” Proposed Rule 7.18(a)(1) would incorporate this definition by reference.

¹⁰ “Member Firm” means a member as that term is defined in Section 3(a)(3) of the Securities Exchange Act. See Amended CTA Plan, Section XI(a)(1)(F) and proposed Rule 7.18(a)(6).

¹¹ The Exchange notes that these terms are defined identically in the Amended CTA Plan and the Amended Nasdaq UTP Plan, such that there will be uniformity in the meaning of the terms among such plans as well as among the rules of the SROs. The Exchange proposes to adopt in Rule 7.18(a) all of the definitions in the Amended CTA

Plan Section XI(a)(i) except for definition of “Regular Trading Hours” at Section XI(a)(i)(I), because the Exchange uses different terminology for its trading sessions and those terms are already defined in the Exchange’s rules. See Rule 7.34(a) defining “Early Trading Session” and “Core Trading Session.”

¹² See proposed Rule 7.18(a)(9).

¹³ See proposed Rule 7.18(a)(1).

information, or regulatory messages for a sustained period.¹⁴

The Exchange notes that the three scenarios included in the proposed new definition would not be exhaustive. This enables the Primary Listing Market to act in the best interests of the market when confronted with unexpected events. However, the Exchange believes that the three scenarios included in the rule cover many of the events that are most likely to occur.

Third, the Exchange proposes to add a set of new definitions that would be specific to events involving the SIP. While the Exchange recognizes that many events involving the SIP would also meet the definition of “Extraordinary Market Activity” as defined in the Amended CTA Plan, the Exchange believes that the critical role of the SIPs in market infrastructure weighs in favor having the Exchange’s rules specify how such events would be handled. The definitions of “SIP Outage,”¹⁵ “Material SIP Latency,”¹⁶ “SIP Halt,”¹⁷ and “SIP Halt Resume Time”¹⁸ are intended to provide specificity to address this subset of potential market issues. In addition, the Exchange is proposing to define terms related to SIP governance needed in order to understand these definitions:

- “Processor” or “SIP”¹⁹ would have the same meaning as the term “Processor” in the Nasdaq UTP Plan or the CTA Plan, as applicable.²⁰
- “SIP Plan”²¹ would be defined as “the national market system plan governing the SIP, as applicable.”
- “Operating Committee”²² would be defined as having the same meaning as in the CTA Plan, namely the committee charged with administering the CTA Plan.
- “Trading Center”²³ would have the same meaning as in Rule 600(b)(95) of Regulation NMS.

The Exchange proposes to adopt a category of Regulatory Halt, called a “SIP Halt,”²⁴ that would have the same meaning as that term is defined in the Amended CTA Plan, namely “a Regulatory Halt to trading in one or

more securities that a Primary Listing Market declares in the event of a SIP Outage or Material SIP Latency.”²⁵ This new category of Regulatory Halt would address situations where the Primary Listing Market declares a Regulatory Halt in one or more securities as a result of a SIP Outage²⁶ or a Material SIP Latency.²⁷

Fourth, the Exchange proposes to add a definition of “Regulatory Halt,”²⁸ which would be a new defined term that incorporates the Exchange’s existing regulatory halt authority as well as the proposed new regulatory halt authority. The Exchange proposes that the term would have the same meaning as in the Amended CTA Plan,²⁹ as follows:

a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up Limit Down,³⁰ a halt based on Extraordinary Market Activity, a trading halt triggered by a Market-Wide Circuit Breaker,³¹ and a SIP Halt.

The term “Regulatory Halt” would include the various existing reasons for a Regulatory Halt that are currently enumerated in the Exchange’s rules and Company Guide, as well as the proposed new categories of Regulatory Halt from the Amended CTA Plan: (1) a SIP Halt (due to a SIP Outage or Material SIP Latency), (2) a halt based

on Extraordinary Market Activity, and (3) a halt in the event of a national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market.

Fifth, the Exchange proposes to add a definition of “Operational Halt,”³² which would be a new definition for the Exchange. The Exchange proposes that this term would have the same meaning as in the Amended CTA Plan, which is: “a halt in trading in one or more securities only on a Market declared by such Participant and is not a Regulatory Halt.”³³ An Operational Halt is effective only on the Exchange; other markets are not required to halt trading in the affected securities. In practice, the Exchange has always had the capacity to implement operational halts and local trading suspensions in specified circumstances, but such halts are not currently referred to as “operational halts” in the Exchange’s rules.³⁴ The proposed change would provide greater clarity on when an Operational Halt may be implemented and the process for halting and resuming trading in the event of an Operational Halt. An Operational Halt is not a Regulatory Halt.

Regulatory Halts

Proposed Rule 7.18(b) would set forth requirements relating to Regulatory Halts.

Authority to Initiate a Regulatory Halt

Proposed Rule 7.18(b)(1) would describe the Exchange’s authority to initiate a Regulatory Halt. In this subsection, the Exchange would identify all of the bases for its Regulatory Halt authority, including cross-referencing to current rules describing existing halt authority and by adding the new Regulatory Halt authority consistent with the Amended CTA Plan.

Proposed Rule 7.18(b)(1)(A) would describe “Mandatory Halts,” where the Exchange must issue a Regulatory Halt. The proposed rule would identify five categories of mandatory Regulatory Halts:

- Pursuant to Rule 7.11 concerning Limit Up Limit Down.³⁵ (Proposed Rule 7.18(b)(1)(A)(i)). This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 7.18(a)(11), which cross-references Section XI(a)(1)(J) of the Amended CTA Plan.

³² See proposed Rule 7.18(a)(8).

³³ See Amended CTA Plan, Section XI(a)(1)(G).

³⁴ See Rule 7.13 (Trading Suspensions).

³⁵ Rule 7.11 is the Exchange’s rule governing Limit Up Limit Down.

¹⁴ See Amended CTA Plan, Section XI(a)(i)(H).

¹⁵ See proposed Rule 7.18(a)(14).

¹⁶ See proposed Rule 7.18(a)(5).

¹⁷ See proposed Rule 7.18(a)(12).

¹⁸ See proposed Rule 7.18(a)(13).

¹⁹ See proposed Rule 7.18(a)(10).

²⁰ See, e.g., Amended CTA Plan, Section I(x), which provides: “‘Processor’ means the organization designated as recipient and processor of last sale price information furnished by Participants pursuant to this CTA Plan, as Section V describes.”

²¹ See proposed Rule 7.18(a)(15).

²² See proposed Rule 7.18(a)(7).

²³ See proposed Rule 7.18(a)(16).

²⁴ See proposed Rule 7.18(a)(12).

²⁵ See Amended CTA Plan, Section XI(a)(1)(K).

²⁶ “SIP Outage” means “a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future.” See Amended CTA Plan, Section XI(a)(1)(M).

²⁷ “Material SIP Latency” means “a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the high speed line or over the “high speed line” under the CQ Plan, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future.” See Amended CTA Plan, Section XI(a)(1)(E).

²⁸ See proposed Rule 7.18(a)(11).

²⁹ See Amended CTA Plan, Section XI(a)(1)(J).

³⁰ The Exchange proposes to incorporate the Amended CTA Plan’s definition of “Limit Up Limit Down.” See proposed Rule 7.18(a)(2).

³¹ The Exchange proposes to incorporate the Amended CTA Plan’s definition of “Market-Wide Circuit Breaker.” See proposed Rule 7.18(a)(4).

- Pursuant to Rule 7.12 concerning Market-Wide Circuit Breaker.³⁶ (Proposed Rule 7.18(b)(1)(A)(ii)). This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 7.18(a)(11), which cross-references Section XI(a)(1)(J) of the Amended CTA Plan.

- For a security for which the Exchange is the Primary Listing Market before the end of the Late Trading Session on the day immediately before the market effective date of a reverse stock split (“Reverse Stock Split Halt”). (Proposed Rule 7.18(b)(1)(A)(iii)). This proposed rule is based on current Rule 123D(f) and would effectuate Section XI(a)(iii)(1) of the Amended CTA Plan, which provides that a Primary Listing Exchange may declare a Regulatory Halt “as provided for in the rules of the Primary Listing Market.” The Exchange proposes to delete current Rule 123D(f) as duplicative of the proposed rule text.

- If the Exchange becomes aware that, with respect to Derivative Securities Products listed on the Exchange for which a Net Asset Value (“NAV”) (and in the case of Managed Fund Shares under Rule 8.600 and Managed Trust Securities under Rule 8.700, a Disclosed Portfolio) is disseminated, such NAV or Disclosed Portfolio is not being disseminated to all market participants at the same time (“Dissemination Halt”). (Proposed Rule 7.18(b)(1)(A)(iv)). This proposed rule is based on current Rule 7.18(d)(2) and would effectuate Section XI(a)(iii)(1) of the Amended CTA Plan, which provides that a Primary Listing Exchange may declare a Regulatory Halt “as provided for in the rules of the Primary Listing Market.” The Exchange proposes to delete current Rule 7.18(d)(2) as duplicative of the proposed rule text.

- As provided for elsewhere in the Rules of the Exchange, including but not limited to Rules 5.1, 5.2, 5.5, 8.3, 8.12, 8.100, 8.200, 8.202, 8.204, 8.400, 8.500, 8.600, 8.601, 8.700, and 8.900 concerning requirements for listing, delisting, and maintaining listings of certain types of securities, and in Sections 202.06 and 202.07 of the Exchange’s Listed Company Manual regarding the public dissemination of material information. (Proposed Rule 7.18(b)(1)(A)(v)). This proposed rule would effectuate Section XI(a)(iii)(1) of the Amended CTA Plan, which provides that a Primary Listing Exchange may declare a Regulatory Halt “as provided for in the rules of the Primary Listing Market.”

Proposed Rule 7.18(b)(1)(B) would describe “Discretionary Halts,” where “the Exchange may declare a Regulatory Halt in trading for any security for which it is the Primary Listing Market.” The proposed rule would list four bases for the Exchange to declare a discretionary Regulatory Halt:

- For a security that is the subject of an initial pricing on the Exchange and that has not been listed on a national securities exchange immediately prior to initial pricing (an “Initial Listing Regulatory Halt”). (Proposed Rule 7.18(b)(1)(B)(i)). This proposed rule is based on current Rule 123D(d) and would effectuate Section XI(a)(iii)(1) of the Amended CTA Plan, which provides that a Primary Listing Exchange may declare a Regulatory Halt “as provided for in the rules of the Primary Listing Market.” The Exchange proposes to delete current Rule 123D(d) as duplicative of the proposed rule text.

- If the Exchange determines that there is a SIP Outage, Material SIP Latency, or Extraordinary Market Activity. (Proposed Rule 7.18(b)(1)(B)(ii)). This proposed rule would effectuate Section XI(a)(iii)(2) of the Amended CTA Plan, which provides this authority.

- In the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market. (Proposed Rule 7.18(b)(1)(B)(iii)). This proposed rule would effectuate Section XI(a)(iii)(3) of the Amended CTA Plan, which provides this authority.

- As provided for elsewhere in the Rules of the Exchange, including but not limited to Rules 5.1, 5.2, 5.5, 8.3, 8.12, 8.100, 8.200, 8.202, 8.204, 8.400, 8.500, 8.600, 8.601, 8.700, and 8.900 concerning requirements for listing, delisting, and maintaining listings of certain types of securities, and in Sections 202.06 and 202.07 of the Exchange’s Listed Company Manual regarding the public dissemination of material information. (Proposed Rule 7.18(b)(1)(B)(iv)). This proposed rule would effectuate Section XI(a)(iii)(1) of the Amended CTA Plan, which provides that a Primary Listing Exchange may declare a Regulatory Halt “as provided for in the rules of the Primary Listing Market.”

Communications

Proposed Rule 7.18(b)(2) would describe communications, consistent with Section XI(a)(viii) of the Amended CTA Plan. The proposed rule would provide that whenever, in the exercise of its regulatory functions, the Exchange as Primary Listing Market for an Eligible Security determines it is appropriate to

initiate a Regulatory Halt, it will notify all other Participants and the Processor of such Regulatory Halt as well as provide notice that a Regulatory Halt has been lifted using such protocols and other emergency procedures as may be mutually agreed to between the Operating Committee and the Exchange. The Processor shall disseminate to Participants notice of the Regulatory Halt (as well as notice of the lifting of a Regulatory Halt) through the high speed line or through the “high speed line” under the CQ Plan, and any other means the Processor, in its sole discretion, considers appropriate. Each Participant shall be required to continuously monitor these communication protocols established by the Operating Committee and the Processor during market hours, and the failure of a Participant to do so shall not prevent the Exchange from initiating a Regulatory Halt in accordance with the SIP Plan and the procedures specified in these rules.

Initiating a Regulatory Halt

Proposed Rule 7.18(b)(3) would specify how the Exchange, as a Primary Listing Market, would initiate a Regulatory Halt. The proposed rule is consistent with the procedures for initiating a Regulatory Halt as set forth in the Section XI(a)(iv) of the Amended CTA Plan.

Proposed Rule 7.18(b)(3)(A) would provide, consistent with Section XI(a)(iv)(A) of the Amended CTA Plan, that the start time of a Regulatory Halt would be when the Primary Listing Market declares the halt, regardless of whether an issue with communications impacts the dissemination of the notice. This proposal would provide market participants with certainty on the official start time of the Regulatory Halt. Under the proposed rule, the start time is fixed by the Primary Listing Market; it is not dependent on whether notice is disseminated immediately. This will avoid possible disagreement if the Regulatory Halt time were tied to dissemination or receipt of notification, which may occur at different times. The Exchange recognizes that in situations where communication is interrupted, trades may continue to occur until news of the Regulatory Halt reaches all trading centers. However, a fixed “official” Regulatory Halt start time will allow SROs to revisit trades after the fact and determine in a consistent manner whether specific trades should stand.

Second, proposed Rule 7.18(b)(3)(B) would provide, consistent with Section XI(a)(iv)(B) of the Amended CTA Plan, that if the SIP is unable to disseminate

³⁶ Rule 7.12 is the Exchange’s rule governing Market-Wide Circuit Breaker.

notice of a Regulatory Halt or the Exchange is not open for trading, the Exchange would take reasonable steps to provide notice of a Regulatory Halt in the manner set forth in the Amended CTA Plan. Currently, after receiving notice from the Primary Listing Market, the SIP disseminates an automated, machine-readable trade halt messages to notify Trading Centers to automatically halt their order matching and order dissemination systems. Many Trading Centers rely solely on such SIP dissemination of a Regulatory Halt. Proposed Rule 7.18(b)(3)(B) would provide that the Exchange would take additional, reasonable steps to notify Trading Centers of a Regulatory Halt. The Amended CTA Plan provides that if the SIP is unable to disseminate notice of a Regulatory Halt, the other available means of dissemination that a Primary Listing Market could use would include:

- Proprietary data feeds that contain the same quote and trade information that the Exchange also sends to the applicable SIP;
- Posting on a publicly available Exchange website; or
- System status messages that are disseminated to market participants who sign up to receive such messages.³⁷

These additional sources for notice of a Regulatory Halt would provide redundancy if either the SIP or the Exchange is unable to communicate via the existing automated procedures. Although it may take longer for market participants to react to messages received in less automated formats, the use of multiple forms of dissemination will increase the likelihood that participants receive this important information. It will also assist participants that do not subscribe to the Exchange's proprietary feeds in getting regulatory notices. As noted above, in situations where communication is interrupted, the Exchange and other SROs would retain the ability to break trades that occurred after the start of the Regulatory Halt in appropriate circumstances, thereby lessening the potential impact on participants that were delayed in halting trading.

Proposed Rule 7.18(b)(3)(C) would provide, consistent with Section XI(a)(iv)(C) of the Amended CTA Plan, that except in exigent circumstances, the Exchange would not declare a Regulatory Halt retroactive to a time earlier than the notice of such halt. Feedback from market participants has been that it is very disruptive to trading when the Primary Listing Market sets

the start of a trading halt for a time earlier than the notice of the halt.³⁸ Therefore, in almost all situations the trading halt will start at the time of the notice or at a point in time thereafter. However, the Exchange would retain the authority to implement a retroactive halt to deal with unexpected and significant situations that represent exigent circumstances. While it is difficult in advance to provide an exhaustive list of when retroactive application of a trading halt would be in the public interest, one situation where a halt was applied retroactively was when the Primary Listing Market erroneously lifted a Regulatory Halt. In that case, the Primary Listing Market instituted a Regulatory Halt retroactively so that it coincided with the time the original halt was lifted in error.

Proposed Rule 7.18(b)(3)(D) would provide, consistent with Section XI(a)(iii)(B) of the Amended CTA Plan, that in making a determination to declare a Regulatory Halt in trading any security for which the Exchange is the Primary Listing Market, the Exchange will consider the totality of information available concerning the severity of the issue, its likely duration, and potential impact on Member Firms and other market participants and will make a good-faith determination that the criteria for declaring the Regulatory Halt have been satisfied and that a Regulatory Halt is appropriate. The Exchange will consult, if feasible, with the affected Trading Center(s), other SIP Plan Participants, or the Processor, as applicable, regarding the scope of the issue and what steps are being taken to address the issue. Once a Regulatory Halt has been declared, the Exchange will continue to evaluate the circumstances to determine when trading may resume in accordance with its Rules.

UTP Regulatory Halt

Proposed Rule 7.18(b)(4) would specify how the Exchange would respond to Regulatory Halts declared by other Primary Listing Markets, referred to by the Exchange as a "UTP Regulatory Halt."³⁹

³⁸ As noted previously, this is measured as the point in time when the Primary Listing Market declares the halt, regardless of whether there is a delay in dissemination of the notice or in receipt of the notice by participants.

³⁹ The term "UTP Listing Market" is defined in Rule 1.1(aa) to mean the primary listing market for a UTP Security. The term "UTP Security" is defined in Rule 1.1(cc) to mean a security that is listed on a UTP Listing Market and that trades on the Exchange pursuant to unlisted trading privileges. The term "UTP Regulatory Halt" is defined in Rule 1.1(bb). The Exchange proposes a non-substantive amendment to this definition to

Proposed Rule 7.18(b)(4)(A) would provide that the Exchange would halt trading in a UTP Security when the Primary Listing Market declares a Regulatory Halt for any such securities. This proposed rule text is based on Section XI(a)(iii) of the Amended CTA Plan, as well as the first sentence of current Rule 7.18(a),⁴⁰ which provides in part that if the UTP Listing Market declares a UTP Regulatory Halt, the Exchange will halt trading in that security.

Proposed Rule 7.18(b)(4)(B)(i), (ii), and (iii) would set forth rules for trading halts in UTP Exchange Traded Products.⁴¹ This proposed rule text is based on current Rule 7.18(d)(1)(A) and (B) with non-substantive differences to replace the term "UTP Derivative Securities Product" with the term "UTP Exchange Traded Product," the term "Exchange's Normal Trading Hours" with the term "Core Trading Session,"⁴² and the term "primary listing market" with the term "Primary Listing Market" in proposed Rule 7.18(b)(4)(B)(ii) and (iii)(a) and (b). The Exchange proposes to delete current Rule 7.18(d) and its sub-paragraphs as duplicative of the proposed rule text.

Resumption of Trading After a Regulatory Halt

The SROs have jointly developed processes to govern the resumption of trading in the event of a Regulatory Halt. While the actual process of re-launching trading will remain unique to each exchange (for example, trading in Exchange-listed securities resumes on the Exchange in most cases pursuant to Rule 7.35), the proposed rule would harmonize certain common elements of the reopening process that would benefit from consistency across markets. These common elements include the primacy of the Primary Listing Market in resumption decisions, the requirement that the Primary Listing Market make its determination to resume trading in good faith, and

cross-reference the definition of "Regulatory Halt" in proposed Rule 7.18 and delete the clause "that requires all market centers to halt trading in that security" as duplicative of the proposed new definition of Regulatory Halt, described above.

⁴⁰ As discussed below, the Exchange proposes to delete current Rule 7.18(a) in its entirety as no longer applicable.

⁴¹ The term "UTP Exchange Traded Product" is defined in Rule 1.1E(l) to mean a security that meets the definition of "derivative securities product" in Rule 19b-4(e) under the Securities Exchange Act of 1934 and that trades on the Exchange pursuant to unlisted trading privileges.

⁴² The term "Core Trading Hours" is defined in Rule 1.1(d) to mean the hours of 9:30 a.m. Eastern Time through 4:00 p.m. Eastern Time or such other hours as may be determined by the Exchange from time to time.

³⁷ See Amended CTA Plan, Section XI(a)(iv)(B)(1)-(3).

certain parts of the complex process for reopening trading after a SIP Halt. With respect to a SIP Halt, common elements of the reopening process include the interaction among SROs (including the Primary Listing Market with the SIP), the requirement that the Primary Listing Market terminate a SIP Halt with a notification that specifies a SIP Halt Resume Time, the minimum quoting times before resumption of trading, the cutoff time after which trading would not resume during Core Trading Hours, and the time when trading may resume if the Primary Listing Market does not open a security within the amount of time specified in its rules after the SIP Halt Resume Time.

Proposed Rule 7.18(b)(5) provides the process for resuming trading upon the conclusion of Regulatory Halts other than SIP Halts. This new rule would effectuate Section XI(a)(v) of the Amended CTA Plan.

Proposed Rule 7.18(b)(5)(A) would make clear that the Exchange, as the Primary Listing Market, is responsible for declaring a resumption of trading when it makes a good-faith determination that trading may resume in a fair and orderly manner in accordance with its rules.

Proposed Rule 7.18(b)(5)(B) would provide that the Exchange would resume trading after a Regulatory Halt other than a SIP Halt with a Trading Halt Auction pursuant to Rule 7.35, except in the situations enumerated in sub-paragraphs (i) through (v).

Sub-paragraph (i) would specify that the Exchange would resume trading after a Limit Up Limit Down trading pause as specified in Rule 7.11.

Sub-paragraph (ii) would specify that the Exchange would resume trading after a Market-Wide Circuit Breaker halt as specified in Rule 7.12.

Sub-paragraph (iii) would specify that the Exchange would resume trading after a Reverse Stock Split Halt with a Trading Halt Auction no earlier than 9:30 a.m., at the start of the Exchange's Core Trading Session, on the effective date of the reverse stock split. This language is identical to current Rule 123D(f), except that the Exchange proposes to change the current rule's provision that it would resume trading with a Trading Halt Auction "at 9:30 a.m." to "no earlier than 9:30 a.m." This reflects the fact that the Trading Halt Auction would be a DMM-facilitated auction and that the DMM would commence the auction process no earlier than 9:30 a.m.

Sub-paragraph (iv) would specify that the Exchange would resume trading after a Dissemination Halt with a Trading Halt Auction when the NAV or

Disclosed Portfolio is available to all market participants.

Sub-paragraph (v) would specify that the Exchange would resume trading after an Initial Listing Regulatory Halt when the DMM opens the security.

Sub-paragraph (vi) would provide that the Exchange would resume trading after a UTP Regulatory Halt other than a SIP Halt by starting to accept orders after the Exchange receives notification⁴³ from the UTP Listing Market that the Regulatory Halt has been terminated, provided that during Core Trading Hours, the Exchange will not resume trading in any security that is subject to the Limit Up Limit Down Plan until the Exchange receives the first Price Band in that security. This proposed rule text is based on the first sentence of current Rule 7.18(a), and the Exchange proposes to delete the first sentence of current Rule 7.18 as duplicative of this new rule text.⁴⁴ Sub-paragraph (vi) would further provide that the Exchange would not conduct a Trading Halt Auction to resume trading after a Regulatory Halt in a UTP Security.

Proposed Rule 7.18(b)(6) would address resumption of trading after a SIP Halt. This new rule would effectuate Section XI(a)(vi) of the Amended CTA Plan.

Proposed Rule 7.18(b)(6)(A) would establish rules for the resumption of trading following a SIP Halt initiated by the Exchange. Proposed Rule 7.18(b)(6)(A)(i), which is based on Section XI(a)(vi)(A) of the Amended CTA Plan, would provide that the Exchange would determine when a SIP Halt would end, which would be defined as the "SIP Halt Resume Time," which is also defined in the Proposed Amended CTA Plan.⁴⁵ As further proposed, in making this determination, the Exchange would make a good-faith determination and consider the totality of information to determine whether resuming trading would promote a fair and orderly market.

The SROs' experience with such events is that communication among SROs, SIPs, and market participants is

the best way to ensure that the Primary Listing Market has access to available information and to coordinate the reopening of trading in an orderly manner. In addition, the SROs anticipate that market participants and other affected entities will have access to information about the issue causing the SIP Halt, the duration of the halt, and the resumption process through updated communications from the SIP processor, Operating Committee, and Primary Listing Market. Accordingly, the proposed Rule 7.18(b)(6)(A)(i) would further provide that when determining whether to resume trading, the Exchange would include input from the SIP processor, the Operating Committee, or the operator of the system in question (as well as any Trading Center(s) to which such system is linked), regarding operational readiness to resume trading. The rule would further provide that the Exchange would retain discretion to delay the SIP Halt Resume Time if it believes trading would not resume in a fair and orderly manner.

Under proposed Rule 7.18(b)(6)(A)(ii), before terminating a SIP Halt, the Exchange would issue a notification that specifies the SIP Halt Resume Time. Section XI(a)(vi)(B) of the Amended CTA Plan directs the Primary Listing Market to specify in its rules (a) the minimum notice it will provide of a SIP Halt Resume Time, during which period market participants may enter quotes in the affected securities, and (b) the last SIP Halt Resume Time before the end of regular trading hours. In accordance with that direction, Proposed Rule 7.18(b)(6)(A)(ii) would state that the Exchange would provide for a minimum five-minute notice of a SIP Halt Resume Time, which is sufficiently in advance of resumption to permit market participants to prepare their systems for trading.

In addition, proposed Rule 7.18(b)(6)(A)(ii) would establish that during Core Trading Hours, the last SIP Halt Resume Time would be 15 minutes before the end of Core Trading Hours, e.g., 3:45 p.m. ET. The Exchange believes that a SIP Halt Resume Time after 3:45 p.m. ET would interrupt a fair and orderly closing process. Accordingly, in such case, the Exchange would not run a Closing Auction and would establish Official Closing Prices for securities affected by the SIP Halt pursuant to Rule 1.1(u)(2) and (3), which set forth how the Exchange will determine the Official Closing Price if the Exchange is unable to conduct a closing transaction in one or more securities due to a systems or technical issue. In such case, the Exchange would

⁴³ The manner and timing of such notice would be determined by the UTP Listing Market.

⁴⁴ The Exchange does not propose to include the second sentence of current Rule 7.18(a) in the proposed rule, as that sentence is inconsistent with the first sentence (upon which proposed Rule 7.18(b)(5)(B)(v) is based), and would permit the Exchange to resume trading in a security affected by a UTP Regulatory Halt other than a SIP Halt before the UTP Listing Market has provided notification that the halt has ended and before the Exchange receives the first LULD Price Bands in that security. The Exchange accordingly proposes to delete the second sentence of current Rule 7.18(a).

⁴⁵ See Amended CTA Plan, Section XI(a)(i)(L).

disseminate a SIP Halt Resume Time after Core Trading Hours.

Proposed Rule 7.18(b)(6)(A)(ii) would further provide the Exchange, as the Primary Listing Market, with discretion to stagger the SIP Halt Resume Times for multiple securities in order to reopen in a fair and orderly manner. For example, this discretion could be used to open trading in a small number of symbols to ensure that systems are operating normally before resuming trading in the remaining symbols.

Proposed Rule 7.18(b)(6)(A)(iii) would provide that the Exchange would reopen trading after a SIP Halt in Exchange-listed securities with Exchange-facilitated Trading Halt Auctions pursuant to Rule 7.35C. The Exchange notes that Rule 7.35C(a) generally provides that the Exchange will conduct an Auction “[i]f a DMM cannot facilitate an Auction for one or more securities in which the DMM is registered under Rules 7.35A or 7.35B,” but in the case of resuming trading after a SIP Halt, the Exchange will facilitate all such Trading Halt Auctions in the first instance, without waiting for DMMs to attempt to reopen the securities. A SIP Halt would affect all securities in a similar manner, unlike other halt events that can reflect varying levels of volatility in different securities. Given the uniformity of the impact of a SIP Halt, the Exchange believes that the Exchange-facilitated Trading Halt Auction is a reasonable way to resume trading after a SIP Halt.

Proposed Rule 7.18(b)(6)(B) would address resumption of trading after a SIP Halt initiated by a UTP Listing Market. The proposed rule would provide that for UTP Securities affected by a SIP Halt, during Core Trading Hours, the Exchange may resume trading in the affected security after trading in the affected security has resumed on the UTP Listing Market or notice has been received from the UTP Listing Market that such trading may resume. The proposed rule would further provide that during Core Trading Hours, if the UTP Listing Market does not open a security within the amount of time listed by the rules of the Primary Listing Market, the Exchange may resume trading in that security, provided that the Exchange will not resume trading in any security that is subject to the Limit Up Limit Down Plan until it receives the first Price Band in that security.⁴⁶ Outside of Core Trading

Hours, the Exchange may resume trading in an affected UTP Security after the SIP Halt Resume Time.

Order Processing During a Regulatory Halt, Including SIP Halts

Proposed Rule 7.18(b)(7) would describe how the Exchange would process new and existing orders during a Regulatory Halt. This proposed rule text is based on current Rule 7.18(b) and (c), with differences described below. The Exchange proposes to delete current Rule 7.18(b) and (c) and their subparagraphs as duplicative of the proposed rule text.

Proposed Rule 7.18(b)(7)(A) would address how the Exchange would process new and existing orders during a Regulatory Halt that will reopen with a Trading Halt Auction. This proposed rule is based on current Rule 7.18(c) with differences to use new terminology relating to Regulatory Halts instead of referring to “securities listed on the Exchange during a halt, suspension or pause.” The Exchange also proposes to specify that the order processing described in this rule would only be applicable for Regulatory Halts if the Exchange reopens with a Trading Halt Auction. Proposed Rules 7.18(b)(7)(A)(i)–(vi) are based on current Rule 7.18(c)(1)–(6) without any substantive differences.

Proposed Rule 7.18(b)(7)(B) would address how the Exchange would process new and existing orders in a UTP Security during a UTP Regulatory Halt (including a SIP Halt initiated by a UTP Listing Market). This proposed rule text is based on current Rule 7.18(b) with non-substantive differences to use new terminology. Proposed Rule 7.18(b)(7)(B)(i)–(vi) are based on current Rule 7.18(b)(1)–(6) without any substantive differences.

Operational Halts

The Exchange proposes to address Operational Halts in proposed Rule 7.18(c). As noted above, an Operational Halt is non-regulatory in nature and applies only to the exchange that calls the halt. As described above, the Exchange has always had the capacity to implement operational halts and local trading suspensions in specified circumstances, but such halts are not currently referred to as “operational halts” in the Exchange’s rules.⁴⁷ As part

Regulatory Halts. See proposed Rule 7.18(b)(5)(B)(v) and current Rule 7.18(a).

⁴⁷ See Rule 7.13E (Trading Suspensions) and Rule 123D(e) regarding “Equipment Changeover” halts. The Exchange also notes that its proposed Rule 7.18(c) regarding Operational Halts is substantially identical to the revised NYSE American, Nasdaq, Phlx, MIAX Pearl, and MEMX rules cited in note 4 above, and is therefore not novel.

of the Exchange’s assessment with other SROs of the halting and resumption of trading, the Exchange believes that the markets would benefit from greater clarity regarding when an Operational Halt may be appropriate. In part, the proposed change is designed to cover situations similar to those that might constitute a Regulatory Halt but where the impact is limited to a single market. For example, just as a market disruption might trigger a Regulatory Halt for Extraordinary Market Activity (as defined in the Amended CTA Plan) if it affects multiple markets, a disruption at the Exchange, such as a technical issue affecting trading in one or more securities, could impact trading on the Exchange so significantly that an Operational Halt is appropriate in one or more securities. In such an instance, it would be in the public interest to institute an Operational Halt to minimize the impact of a disruption that, if trading were allowed to continue, might negatively affect a greater number of market participants. An Operational Halt does not implicate other trading centers.

Proposed Rule 7.18(c)(1) would specify the Exchange’s authority to initiate an Operational Halt, which is discretionary, and provide that the Exchange may declare an Operational Halt for any security trading on the Exchange if it is experiencing Extraordinary Market Activity on the Exchange (Proposed Rule 7.18(c)(1)(A)) or when otherwise necessary to maintain a fair and orderly market or in the public interest (Proposed Rule 7.18(c)(1)(B)).⁴⁸

Under proposed Rule 7.18(c)(2), the Exchange would notify the Processor if it has concerns about its ability to collect and transmit quotes, orders, or last sale prices, or where it has declared an Operational Halt or suspension of trading in one or more Eligible Securities (as that term is defined in the CTA Plan), pursuant to the procedures adopted by the Operating Committee.

Proposed Rule 7.18(c)(3) would set out rules for order processing during an Operational Halt. In such case, proposed Rule 7.18(c)(3)(A) would provide that the Exchange would cancel all unexecuted orders resting on the Exchange Book, including Auction-Only

⁴⁸ The Exchange proposes to delete current Rule 123D(e) (Equipment Changeover), an antiquated provision establishing an Exchange-only halt for the purpose of physically replacing faulty equipment. That rule predates the Pillar trading system and is no longer used. Additionally, in light of the fact that the Exchange proposes to incorporate the remainder of current Rule 123D (i.e., paragraphs (d) and (f)) into the proposed Rule 7.18 (see proposed Rule 7.18(b)(1)(A)(iv) and (b)(1)(B)(ii)), the Exchange proposes to delete the entirety of current Rule 123D.

⁴⁶ The Exchange’s proposal to wait for the first Limit Up Limit Down Price Band in the affected UTP Security before resuming trading after a SIP Halt initiated by a UTP Listing Market is consistent with the Exchange’s practice for resuming trading in affected UTP Securities after other types of

Orders, and proposed Rule 7.18(c)(3)(B) would provide that the Exchange would reject all other incoming order instructions until the Exchange resumes trading. The Exchange currently processes new and existing orders in this manner when it suspends trading.⁴⁹ The Exchange proposes to include this processing in Rule 7.18 to specify that this processing would also be applicable to when the Exchange resumes trading following an Operational Halt in an Exchange-listed security.

Proposed Rule 7.18(c)(4) would specify how the Exchange resumes trading after an Operational Halt. Proposed Rule 7.18(c)(4)(A) would provide that the Exchange would resume trading following an Operational Halt when it determines that trading may resume in a fair and orderly manner consistent with the Exchange's rules. Proposed Rule 7.18(c)(4)(B) would address "Communications," and provide that trading in a halted security shall resume at the time specified by the Exchange in a notice. It would further specify that Exchange will notify all other Plan participants and the SIP of such Operational Halt as well as provide notice that an Operational Halt has been lifted using such protocols and other emergency procedures as may be mutually agreed to between the Operating Committee and the Exchange. If the SIP is unable to disseminate notice of an Operational Halt or the Exchange is not open for trading, the Exchange would take reasonable steps to provide notice of an Operational Halt, which shall include both the type and start time of the Operational Halt. Each Plan participant shall continuously monitor communication protocols established by the Operating Committee and the Processor during market hours to disseminate notice of an Operational Halt, and the failure of a participant to do so shall not prevent the Exchange from initiating an Operational Halt.

Conforming Changes to Other Rules

The Exchange also proposes non-substantive amendments of two other rules.

First, as noted above, the Exchange proposes a non-substantive amendment to the definition of "UTP Regulatory Halt" in Rule 1.1E(bb) to cross-reference the definition of "Regulatory Halt" in proposed Rule 7.18 and delete the clauses "trade, suspension, halt, or pause" and "that requires all market centers to halt trading in that security" as duplicative of the proposed new definition of Regulatory Halt.

Second, the Exchange proposes to amend Rule 7.11 (Limit Up-Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility). Current Rule 7.11(b)(2) provides that if a primary listing market other than the Exchange issues a Trading Pause, the Exchange will resume trading as provided for in Rule 7.18(a) regarding UTP Regulatory Halts. The Exchange proposes to replace the term "primary listing market" with "UTP Listing Market" for clarity, and proposes to change the current cross-reference to Rule 7.18(b) to refer instead to amended Rule 7.18(b)(5)(B)(vi), which would encompass the provisions of current Rule 7.18(a).

Implementation

The Exchange will implement the changes proposed herein in conjunction with the Processors and the other SROs implementing the necessary rule changes and related technology and procedural changes. The Exchange will publish a trader notice at least 30 business days before implementing the proposed changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁵⁰ Specifically, the proposal is consistent with Section 6(b)(5) of the Act⁵¹ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

As described above, the Exchange and other SROs are seeking to adopt harmonized rules related to halting and resuming trading in U.S.-listed equity securities. The Exchange believes that the proposed rules will provide greater transparency and clarity with respect to the situations in which trading will be halted and the process through which that halt will be implemented and terminated. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. equities exchanges and in the over-the-counter market while maintaining a fair and orderly market, protecting investors, and protecting the public interest. Based on the foregoing, the Exchange believes that the proposed

rules are consistent with Section 6(b)(5) of the Act⁵² because they will foster cooperation and coordination with persons engaged in regulating and facilitating transactions in securities.

As discussed previously, the Exchange believes that the various provisions of the proposed rules that will apply to all SROs are focused on the type of cross-market event where a consistent approach will assist market participants and reduce confusion during a crisis. Because market participants often trade the same security across multiple venues and trade securities listed on different exchanges as part of a common strategy, the Exchange believes that the proposed rules will lessen the risk that market participants holding a basket of securities will have to deal with divergent outcomes depending on where the securities are listed or traded. Conversely, the proposed rules would still allow individual SROs to react differently to events that impact various securities or markets in different ways. This avoids the "brittle market" risk where an isolated event at a single market forces all markets trading equities securities to halt or halts trading in all securities where the issue affected only a subset of securities. By addressing both concerns, the Exchange believes that the proposed rules further the Act's goal of maintaining fair and orderly markets.

The Exchange believes that the proposed rule's focus of responsibility on the Primary Listing Market for decisions related to a Regulatory Halt and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed. As is currently the case, the Primary Listing Market would be responsible for the many regulatory functions related to its listings, including the determination of when to declare a Regulatory Halt. While these core responsibilities remain with the Primary Listing Market, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security or in the over-the-counter market, regulated by FINRA. These other venues are responsible for monitoring activity on their own markets, but also have agreed to honor a Regulatory Halt.

The proposed changes relating to Regulatory Halts would ensure that all SROs handle the situations covered therein in a consistent manner that would prevent conflicting outcomes in cross-market events, and ensure that all Trading Centers recognize a Regulatory

⁴⁹ See current Rule 7.18(c).

⁵⁰ 15 U.S.C. 78f(b).

⁵¹ 15 U.S.C. 78f(b)(5).

⁵² 15 U.S.C. 78f(b)(5).

Halt declared by the Primary Listing Market. The changes are consistent with and implement the Amended CTA Plan. While the proposed rules recognize one Primary Listing Market for each security, the rules do not prevent an issuer from switching its listing to another national securities exchange that would thereafter assume the responsibilities of Primary Listing Market for that security. Similarly, the proposed rules set forth a fair and objective standard to determine which exchange will be the Primary Listing Market in the case of dually-listed securities: the exchange on which the security has been listed the longest.

The Exchange believes that the other definitions in the proposed rules are also consistent with the Act. For example, the proposed rules would define what constitutes Extraordinary Market Activity, consistent with the definition of that term in the Amended CTA Plan, thereby furthering the Act's goal of promoting fair and orderly markets. The Exchange is also proposing to adopt definitions for "SIP Outage," "Material SIP Latency" and "SIP Halt," to explicitly address situations that may disrupt the markets, and these definitions are identical to the definitions in the Amended CTA Plan. The proposed rules specify when the Exchange should seek information from the Operating Committee, other SROs, and market participants as well as means for dissemination of important information to the market, consistent with the Amended CTA Plan. The Exchange believes these provisions strike the right balance in outlining a process to address unforeseen events without preventing SROs from taking action needed to protect the market.

The Exchange believes that the proposed rules, which make halts consistent across exchange rules, is consistent with the Act in that it will foster cooperation and coordination with persons engaged in regulating the equities markets. In particular, the Exchange believes it is important for SROs to coordinate when there is a widespread and significant event, as multiple Trading Centers are affected in such an event. Further, while the Exchange recognizes that the proposed rule will not guarantee a consistent result on every market in all situations, the Exchange does believe that it will assist in that outcome. While the proposed rule relating to Regulatory Halts focuses primarily on the kinds of cross-market events that would likely impact multiple markets, individual SROs will still retain flexibility to deal with unique products or smaller situations confined to a particular

market. To that end, the Exchange has retained some existing elements of Rule 7.18 that focus on its unique products and the processes it has developed over time to interact with its issuers.

Also consistent with the Act, and with the Amended CTA Plan, is the Exchange's proposal in Rule 7.18(c) to address Operational Halts, which are non-regulatory in nature and apply only to the exchange that declares the halt. As noted earlier, the Exchange has always had the capacity to implement operational halts and local trading suspensions, but such halts are not currently referred to as "operational halts" in the Exchange's rules.⁵³ The Exchange also notes that its proposed Rule 7.18(c) regarding Operational Halts is substantially identical to the revised NYSE American, Nasdaq, Phlx, MIAX Pearl, and MEMX rules cited above,⁵⁴ and is therefore not novel.

The Exchange believes that the markets would benefit from greater clarity regarding when an Operational Halt may be appropriate. In part, the proposed change is designed to cover situations similar to those that might constitute a Regulatory Halt, but where the impact is limited to a single market. For example, just as a market disruption might trigger a Regulatory Halt for Extraordinary Market Activity if it affects multiple markets, so could a disruption at the Exchange, such as a technical issue affecting trading in one or more securities, impact trading on the Exchange so significantly that an Operational Halt is appropriate in one or more securities. In such an instance, it would be in the public interest to institute an Operational Halt to minimize the impact of a disruption that, if trading were allowed to continue, might negatively affect a greater number of market participants. An Operational Halt does not implicate other trading centers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act⁵⁵ in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange believes the proposal would not impose a burden on intermarket competition but rather would alleviate any burden on competition because it is the result of a

collaborative effort by all SROs to harmonize and improve the process related to the halting and resumption of trading in U.S.-listed equity securities. In this area, the Exchange believes that all SROs should have consistent rules to the extent possible in order to provide additional transparency and certainty to market participants and to avoid inconsistent outcomes that could cause confusion and erode market confidence. The proposed changes would ensure that all SROs handle the situations covered therein in a consistent manner and ensure that all Trading Centers handle a Regulatory Halt consistently. The Exchange understands that all other Primary Listing Markets intend to file proposals that are substantially similar to this proposed rule change.

The Exchange does not believe that its proposals concerning Operational Halts impose and undue burden on competition. Under its existing rules, the Exchange already possesses discretionary authority to impose halts and trading suspensions for various reasons. The proposed rule change clarifies and broadens the circumstances in which the Exchange may impose such Operational Halts, and specifies procedures for both imposing and lifting them. The Exchange does not intend for these proposals to have any competitive impact whatsoever. Indeed, the Exchange expects that other exchanges will adopt similar rules and procedures to govern operational halts, to the extent that they have not done so already.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the proposed rule would apply to all market participants equally. In addition, information regarding the halting and resumption of trading will be disseminated using several freely-accessible sources to ensure broad availability of information in addition to the SIP data and proprietary data feeds offered by the Exchange and other SROs that are available to subscribers.

In addition, the proposed rule change includes several provisions related to the declaration and timing of trading halts and the resumption of trading designed to avoid any advantage to those who can react more quickly than other participants. The proposed rules gives the Exchanges the ability to declare the timing of a Regulatory Halt immediately. The SROs retain the discretion to cancel trades that occur after the time of the Regulatory Halt. The proposed rule change also allows for the staggered resumption of trading to assist firms in reentering the market after a SIP Halt affecting multiple securities, in order to reopen in a fair

⁵³ See Rule 7.13 (Trading Suspensions) and Rule 123D(e) regarding "Equipment Changeover" halts.

⁵⁴ See *supra* note 5.

⁵⁵ 15 U.S.C. 78f(b)(8).

and orderly manner. In addition, the proposed rule change encourages early and frequent communication among the SROs, SIPs, and market participants to enable the dissemination of timely and accurate information concerning the market to market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁵⁶ and Rule 19b-4(f)(6) thereunder.⁵⁷ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)⁵⁸ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁵⁹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)⁶⁰ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2025-21 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-NYSE-2025-21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the 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-NYSE-2025-21 and should be submitted on or before July 24, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶¹

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2025-12426 Filed 7-2-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103354; File No. SR-NYSE-2025-23]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List

June 30, 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 June 16, 2025, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to introduce additional monthly quoting incentives for Designated Market Makers ("DMM") in assigned Exchange Traded Products ("ETP") after the first 12 months, and up to the first 36 months, following listing on the Exchange. The Exchange proposes to implement the fee changes effective June 16, 2025. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

⁵⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵⁷ 17 CFR 240.19b-4(f)(6).

⁵⁸ 17 CFR 240.19b-4(f)(6).

⁵⁹ 17 CFR 240.19b-4(f)(6)(iii).

⁶⁰ 15 U.S.C. 78s(b)(2)(B).

⁶¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes additional monthly quoting incentives for DMMs in assigned ETPs after the first 12 months, and up to the first 36 months, following listing on the Exchange.

The proposed change responds to the current competitive environment where order flow providers have a choice of where to direct orders by offering incentives to DMMs to quote and trade at the national best bid or offer ("NBBO")³ in assigned ETPs for a specified period following the ETP's listing on the Exchange. The Exchange also hopes thereby to encourage additional ETPs to list and trade, and to maintain their listing, on the Exchange.

The Exchange proposes to implement the fee changes effective June 16, 2025.⁴

Background

Current Market and Competitive Environment

The Exchange operates in a highly competitive market. 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."⁵

While Regulation NMS has enhanced competition, it has also fostered a "fragmented" market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that "such competition can lead to the fragmentation of order flow in that stock."⁶ Indeed, cash equity trading is

currently dispersed across 16 exchanges,⁷ numerous alternative trading systems,⁸ and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 20% market share.⁹ Therefore, no exchange possesses significant pricing power in the execution of cash equity order flow. More specifically, the Exchange's share of executed volume of equity trades in Tapes A, B and C securities is less than 12%.¹⁰

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide displayed liquidity on an Exchange, member organizations can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

In response to the competitive environment described above, the Exchange proposes additional monthly credits for DMMs that meet certain quoting and volume requirements in assigned ETPs during the first 12 months, and up to the first 36 months, following the assigned ETP's listing on the Exchange while that ETP is listed on the Exchange.

Proposed Rule Change

In order to encourage quoting on the Exchange in listed ETPs, the Exchange currently offers monthly quoting credits to DMMs in assigned ETPs. Specifically, DMMs quoting 30% or more of the time in a billing month in an ETP assigned to that DMM on the last day of that billing month are eligible for a credit of \$4,000 per assigned ETP for that billing month. DMMs quoting less than 30% of the time in a billing month in an ETP assigned to that DMM on the last day of that billing month are eligible for a

credit of \$2,000 per assigned ETP for that billing month. DMMs are eligible for these credits for the first 12 months following the listing of the ETP on the Exchange while that ETP is listed on the Exchange.

The Exchange proposes to retain these incentives and introduce additional tiered incentives to encourage quoting on the Exchange in listed ETPs by DMMs in assigned securities, as follows.

First, a DMM quoting 30% or more of the time in a billing month in an ETP assigned to that DMM on the last day of that billing month that also has (1) a CADV of 100,000 shares or more, and (2) a DMM Providing Liquidity¹¹ of 15% or more in that ETP in DMM assigned securities will be eligible for a \$2,000 credit for that billing month for that ETP after the first 12 months and up to the first 36 months of listing on the NYSE.

Second, DMMs quoting 30% or more of the time in a billing month in an ETP assigned to that DMM on the last day of that billing month that has (1) a CADV of less than 100,000 shares, and (2) a DMM Providing Liquidity of 40% or more in that ETP will be eligible for a \$2,000 credit for that billing month after the first 12 months and up to the first 36 months of that ETP's listing on the NYSE.

DMMs not meeting the above requirements for quoting or DMM Providing Liquidity in an ETP assigned to that DMM on the last day of that billing month would be eligible for a credit of \$500 per assigned ETP for that billing month after the first 12 months and up to the first 36 months of listing on the NYSE.

As noted above, DMMs currently quoting under 30% of the time in a billing month in an ETP assigned to that DMM on the last day of that billing month are eligible for a credit of \$2,000 per assigned ETP for that billing month. With respect to eligibility for the \$2,000 credit per assigned ETP, the Exchange would change "Under 30%" to "ETP symbols not meeting the above requirements" in order to reflect the proposed introduction of additional DMM requirements.

Finally, as set forth in proposed footnote *, DMMs with 1–20 assigned ETPs as of June 30, 2025, would be eligible for a one-time \$15,000 incentive. DMMs with over 20 assigned ETPs as of June 30, 2025, will be eligible for a one-time incentive of \$60,000.

¹¹ The terms "ADV" and "CADV" are defined in footnote * of the Price List. The term "DMM Providing Liquidity" is defined in the section of the Price List titled "Fees and Credits applicable to Designated Market Makers ("DMMs")" under the "General" heading.

³ See Rule 1.1(r) (definition of NBBO, Best Protected Bid, Best Protected Offer, Protected Best Bid and Offer (PBBO)).

⁴ The Exchange originally filed to amend the Price List on June 3, 2025 (SR-NYSE-2025-19). SR-NYSE-2025-84 was withdrawn on June 16, 2025 and replaced by this filing.

⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7-10-04) (Final Rule) ("Regulation NMS").

⁶ See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

⁷ See Cboe U.S. Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmr-exchangesshtml.html>.

⁸ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atslist.htm>.

⁹ See Cboe Global Markets U.S. Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share/.

¹⁰ See *id.*

For example, ETP 1 lists on the Exchange and is assigned to DMM A in August 2024. Further assume that for ETP1, DMM A quotes at the NBBO 35% of the time and has DMM Providing Liquidity of 25% every month. Based on this quoting activity, DMM A would be eligible for the following credits for these billing months:

- \$4,000 credit in July 2025 since DMM A meets the 30% DMM quoting requirement and ETP1 is in its 12th month of listing on NYSE.
- \$2,000 credit in August 2025 if ETP 1 has a CADV of at least 100,000 as DMM A meets both the 30% DMM quoting requirement and 15% DMM Providing Liquidity requirement, and ETP1 is in its 13th month of listing on the Exchange.
- \$500 credit in August 2025 if ETP 1 has a CADV of less than 100,000 as DMM A meets the 30% DMM quoting requirement but does not meet the 40% DMM Providing Liquidity requirement insofar as ETP 1 is in its 13th month of listing on the Exchange.
- The DMM would be eligible for these credits each month through July 2027 assuming the DMM meets the proposed requirements each billing month. The DMM would not be eligible for any credit in August 2027 since ETP 1 would be in its 37th month of listing on the Exchange.

As another example, assume ETP 2 lists on the Exchange and is assigned to DMM B in August 2023. Further assume that for ETP 2, DMM B quotes at the NBBO 35% of the time and has a DMM Providing Liquidity of 25% every month. Based on this quoting activity, DMM B would be eligible for a \$2,000 credit in June 2025 if ETP 2 has a CADV of at least 100,000, or a \$500 credit if ETP 2 has a CADV of less than 100,000, as ETP 2 is in its 23rd month of listing on the Exchange. In addition, assume that DMM B has 7 assigned ETPs as of June 30, 2025. Pursuant to proposed footnote *, DMM B would be eligible to receive a one-time credit of \$15,000.

The purpose of the proposed change is to encourage higher quoting and adding levels by DMMs on the Exchange in a listed ETP's in the period after the first 12 months, and up to the first 36 months, following listing, which would support the quality of price discovery on the Exchange and is consistent with the overall goals of enhancing market quality. As noted above, the Exchange operates in a competitive environment, and member organizations have a choice of where to send order flow. Because the proposal permits DMMs to receive a monthly credit if the DMM quotes a certain percentage at the NBBO on the Exchange during the first 12 months and

up to the first 36 months following an ETP's listing while the ETP is listed, and meets the proposed per symbol CADV and DMM Providing Liquidity requirements, the Exchange believes that the proposed credits would provide incentives for DMMs to increase quoting on the Exchange in their listed ETPs in order to qualify for the proposed incentives. The Exchange believes that incentivizing DMMs on the Exchange to add liquidity at the NBBO to meet the higher quote and adding levels could contribute to price discovery and improve quoting on the Exchange. In addition, additional liquidity providing quotes benefit all market participants because they provide greater execution opportunities on the Exchange and improve the public quotation, which benefits all member organizations. Moreover, the Exchange believes that offering an additional one-time incentive to DMMs based on the number of assigned ETPs as of June 30, 2025, together with the other proposed incentives, is a reasonable means to incentivize DMMs in assigned ETPs, which will improve market quality, attract additional order flow to a public market, and enhance execution opportunities for member organizations on the Exchange, to the benefit of all market participants.

The proposed change is not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹³ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change Is Reasonable

As discussed above, the Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO

revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁴ While Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”¹⁵

The new proposed incentives are reasonable. Specifically, the Exchange believes that a new DMM credits would provide an incentive for DMMs to increase liquidity-providing orders at the NBBO on the Exchange following the first year and up to 36 months after the listing of an ETP. The proposed credits are thus intended to encourage higher levels of liquidity and quoting by DMMs on the Exchange in listed ETPs for longer following listing, which would support the quality of price discovery on the Exchange and is consistent with the overall goals of enhancing market quality. To the extent that the proposed change leads to an increase in overall liquidity activity and quoting on the Exchange and more competitive quoting, this will improve the quality of the Exchange's market, improve quote spreads and increase its attractiveness to existing and prospective participants. The proposed incentives will also support new ETPs listing on the Exchange by incentivizing DMMs in those ETP listed issues that meet the specified CADV levels to quote at the NBBO more often and provide more liquidity to meet the new requirements. In addition, the proposed change would incentivize DMMs quoting less than 30% of the time in a billing month in an ETP assigned to that DMM on the last day of that billing month that are currently receiving a \$2,000 credit to be eligible for the proposed \$500 credit after the first 12 months and up to the first 36 months based on the same trading profile.

As noted above, the Exchange operates in a competitive environment, and member organizations have a choice of where to send order flow. Because the proposed credits require DMMs to meet

¹⁴ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) (“Regulation NMS”).

¹⁵ See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) & (5).

certain quoting requirements at the NBBO and providing liquidity requirements at specified CADV levels in order to qualify for the credits, the Exchange believes that the proposed credit would provide an incentive for all DMMs to increase quoting on the Exchange in order to qualify for the base credit and increase quoting and providing in order to qualify for the higher credit. The Exchange believes that incentivizing DMMs on the Exchange to add liquidity to meet the higher quote levels at the NBBO for more months following listing on the Exchange could contribute to improved price discovery and quoting on the Exchange. In addition, additional liquidity providing quotes benefit all market participants because they provide greater execution opportunities on the Exchange and improve the public quotation. The proposal would also reward DMM units, who have greater risks and heightened quoting and other obligations than other market participants.

The Proposal Is An Equitable Allocation of Fees

The Exchange believes that the proposed credits are an equitable allocation of fees because the proposed credits would be available to all DMMs on an equal basis. The Exchange believes that the proposal will allocate the proposed credits fairly among DMMs and allow DMMs to qualify for a credit by adding liquidity and improving quoting at the NBBO during the first 12 months and up to the first 36 months following an ETP's listing on the Exchange. The Exchange believes the proposed rule change would improve market quality by providing incentives for all DMMs to increase aggressively priced liquidity-providing orders at the NBBO on the Exchange, thereby encouraging higher levels of liquidity by DMMs on the Exchange, which would support the quality of price discovery on the Exchange and is consistent with the overall goals of enhancing market quality. Moreover, the proposal is an equitable allocation of fees because it would incentivize DMM units for their increased risks and heightened quoting and other obligations in assigned ETPs. As such, it is equitable to offer DMM units an additional flat, one-time credit based on the number of assigned ETPs as of June 30, 2025.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes it is not unfairly discriminatory to provide credits for adding liquidity that

encourage DMMs on the Exchange to quote at the NBBO as the proposed credits would be provided on an equal basis to all similarly situated DMMs that add liquidity in assigned ETPs after the first year and up to 36 months following listing and by meeting the proposed quoting, CADV, and DMM Providing Liquidity requirements. For the same reason, the Exchange believes it is not unfairly discriminatory to provide a lower credit for quoting at the NBBO less than 30% during that same time period because the proposed credit would equally encourage all similarly-situated DMMs to provide additional liquidity on the Exchange. As noted, the Exchange intends for the proposal to further improve market quality for all members on the Exchange in listed ETPs and by extension attract more liquidity to the market, thereby encouraging higher levels of liquidity by DMMs on the Exchange in listed ETPs, which would support the quality of price discovery on the Exchange and is consistent with the overall goals of enhancing market quality. The Exchange also believes that basing the additional incentive on the number of assigned ETPs as of June 30, 2025, is not unfairly discriminatory because it would apply equally to all member organizations that choose to maintain DMM units on the Exchange.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹⁶ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for member organizations. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁷

Intramarket Competition. The proposed changes are designed to incentivize market participants to direct

displayed order flow to the Exchange by encouraging DMMs to provide additional liquidity on the Exchange in listed ETPs. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages member organizations to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The proposed credits would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the change on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which 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. In such an environment, the Exchange must continually adjust its fees and rebates, including fees and rebates for market makers on the Exchange, to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁸ and Rule 19b-4(f)(2) thereunder¹⁹ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon

¹⁶ 15 U.S.C. 78f(b)(8).

¹⁷ Regulation NMS, 70 FR at 37498-99.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁹ 17 CFR 240.19b-4.

filing. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2025-23 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-NYSE-2025-23. 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-NYSE-2025-23 and should be submitted on or before July 24, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2025-12424 Filed 7-2-25; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 12760]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Homecoming: Walter Osborne’s Portraits of Dublin, 1880–1900” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Homecoming: Walter Osborne’s Portraits of Dublin, 1880–1900” at the Raclin Murphy Museum of Art, University of Notre Dame du Lac, Notre Dame, Indiana, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/DP, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of

August 28, 2000, and Delegation of Authority No. 574 of March 4, 2025.

Mary C. Miner,

Managing Director for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2025-12434 Filed 7-2-25; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice: 12761]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “The Honest Eye: Camille Pissarro’s Impressionism” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “The Honest Eye: Camille Pissarro’s Impressionism” at the Denver Art Museum, Denver, Colorado, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/DP, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 574 of March 4, 2025.

Mary C. Miner,

Managing Director for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2025-12431 Filed 7-2-25; 8:45 am]

BILLING CODE 4710-05-P

²⁰ 17 CFR 200.30-3(a)(12).

SUSQUEHANNA RIVER BASIN COMMISSION**Public Hearing**

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on July 31, 2025. The Commission will hold this hearing in person and telephonically. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. Such projects and actions are intended to be scheduled for Commission action at its next business meeting, scheduled for September 24, 2025, which will be noticed separately. The public should note that this public hearing will be the only opportunity to offer oral comments to the Commission for the listed projects and actions. The deadline for the submission of written comments is August 11, 2025.

DATES: The public hearing will convene on July 31, 2025, at 6:00 p.m. The public hearing will end at 9:00 p.m. or at the conclusion of public testimony, whichever is earlier. The deadline for submitting written comments is Monday, August 11, 2025.

ADDRESSES: This public hearing will be conducted in person and telephonically. You may attend in person at Susquehanna River Basin Commission, 4423 N. Front St., Harrisburg, Pennsylvania, or join by telephone at Toll-Free Number 1-877-304-9269 and then enter the guest passcode 2619070 followed by #.

FOR FURTHER INFORMATION CONTACT: Jason Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238-0423 or joyler@srbc.gov. Information concerning the project applications is available at the Commission's Water Application and Approval Viewer at <https://www.srbc.gov/waav>. Additional supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at www.srbc.gov/regulatory/policies-guidance/docs/access-to-records-policy-2009-02.pdf.

SUPPLEMENTARY INFORMATION: The public hearing will cover the following projects:

Projects Scheduled for Action

1. Project Sponsor and Facility: Blackhill Energy LLC (Chemung River), Athens Township, Bradford County, Pa. Application for renewal with modification of surface water

withdrawal of up to 1.999 mgd (peak day) (Docket No. 20220903).

2. Project Sponsor: Calpine Mid Merit, LLC. Project Facility: York Energy Center 1, Peach Bottom Township, York County, Pa. Application for consumptive use of up to 4.900 mgd (peak day).

3. Project Sponsor: Calpine Mid Merit, LLC. Project Facility: York Energy Center 2 (Susquehanna River), Peach Bottom Township, York County, and Drumore Township, Lancaster County, Pa. Modification to surface water withdrawal of up to 19.010 mgd (peak day) and consumptive use of up to 5.800 mgd (peak day) (Docket No. 20060308).

4. Project Sponsor and Facility: City of Lock Haven, Wayne Township, Clinton County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.720 mgd from the Matz Well and 0.720 mgd from the Quaker Hill Well.

5. Project Sponsor and Facility: Coterra Energy Inc., Eaton Township, Wyoming County, Pa. Application for renewal of groundwater withdrawals of up to 0.864 mgd (30-day average) from the Hatchery Wellfield (Wells 1, 2, and 3) (Docket No. 20200903).

6. Project Sponsor and Facility: Expand Operating LLC (Susquehanna River), Standing Stone Township, Bradford County, Pa. Application for surface water withdrawal of up to 4.000 mgd (peak day).

7. Project Sponsor and Facility: Expand Operating LLC (Susquehanna River), Wilmot Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 3.000 mgd (peak day) (Docket No. 20200905).

8. Project Sponsor and Facility: Expand Operating LLC (Susquehanna River), Windham Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 3.000 mgd (peak day) (Docket No. 20200906).

9. Project Sponsor and Facility: Expand Operating LLC (Wyalusing Creek), Wyalusing Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 3.000 mgd (peak day) (Docket No. 20200907).

10. Project Sponsor: Graymont (PA) Inc. Project Facility: Pleasant Gap Facility, Spring Township, Centre County, Pa. Application for renewal of groundwater withdrawal of up to 0.050 mgd (30-day average) from the Plant Make-Up Well (Docket No. 20100307).

11. Project Sponsor and Facility: Green Leaf Water LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.900 mgd (peak day) (Docket No. 20200908).

12. Project Sponsor and Facility: Greylock Production, LLC (Pine Creek), Gaines Township, Tioga County, Pa. Application for surface water withdrawal of up to 3.000 mgd (peak day).

13. Project Sponsor and Facility: Hanover Foods Corporation, Penn and Heidelberg Townships, York County, Pa. Applications for renewal of consumptive use of up to 0.499 mgd (peak day) and groundwater withdrawals (30-day averages) of up to 0.072 mgd from Well PW-3, 0.144 mgd from Well PW-4, and 0.231 mgd from Well PW-5 (Docket Nos. 19980503 and 19991104).

14. Project Sponsor and Facility: Hegins-Hubley Authority, Hegins Township, Schuylkill County, Pa. Application for renewal of groundwater withdrawal of up to 0.216 mgd (30-day average) from Well 6 (Docket No. 19981204).

15. Project Sponsor: Hillandale-Gettysburg, L.P. Project Facility: Site 3, Tyrone Township, Adams County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.019 mgd from Well 1, 0.035 mgd from Well 2, 0.035 mgd from Well 3, and 0.060 mgd from Well 4.

16. Project Sponsor and Facility: Lykens Borough Authority, Wiconisco Township, Dauphin County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.393 mgd from Well 2 and 0.035 mgd from Well 3.

17. Project Sponsor and Facility: Pennsylvania General Energy Company, L.L.C. (Muncy Creek), Shrewsbury Township, Lycoming County, Pa. Application for surface water withdrawal of up to 1.500 mgd (peak day).

18. Project Sponsor and Facility: Repsol Oil & Gas USA, LLC (Susquehanna River), Sheshequin Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20200913).

19. Project Sponsor and Facility: Sabre Energy Development LLC (Muncy Creek), Muncy Creek Township, Lycoming County, Pa. Application for surface water withdrawal of up to 1.700 mgd (peak day).

20. Project Sponsor and Facility: Sabre Energy Development LLC (Muncy Creek), Penn Township, Lycoming County, Pa. Application for surface water withdrawal of up to 1.700 mgd (peak day).

21. Project Sponsor: Veolia Water Pennsylvania, Inc. Project Facility: Newberry Operation, Newberry Township, York County, Pa.

Application for renewal of groundwater withdrawal of up to 0.121 mgd (30-day average) from the Paddletown Well (Docket No. 20090917).

22. Project Sponsor: York Haven Power Company, LLC. Project Facility: York Haven Hydroelectric Project, Londonderry Township, Dauphin County; Conoy Township, Lancaster County; and York Haven Borough and Newberry Township, York County, Pa., Modification to the design of the nature-like fishway (Docket No. 20200308).

Opportunity To Appear and Comment

Interested parties may appear or call into the hearing to offer comments to the Commission on any business listed above required to be the subject of a public hearing. Given the nature of the meeting, the Commission strongly encourages those members of the public wishing to provide oral comments to pre-register with the Commission by emailing Jason Oyler at joyler@srbc.gov before the hearing date. The presiding officer reserves the right to limit oral statements in the interest of time and to control the course of the hearing otherwise. Access to the hearing via telephone will begin at 5:45 p.m. Guidelines for the public hearing are posted on the Commission's website, www.srbc.gov, before the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be the subject of a public hearing may also be mailed to Mr. Jason Oyler, Secretary to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through <https://www.srbc.gov/meeting-comment/default.aspx?type=2&cat=7>. Comments mailed or electronically submitted must be received by the Commission on or before Monday, August 11, 2025.

Authority: Public Law 91-575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808.

Dated: July 1, 2025.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2025-12476 Filed 7-2-25; 8:45 am]

BILLING CODE 7040-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2025-1571]

Notice of Rescission of FAA Order 1050.1F, Availability of FAA Order 1050.1G, Request for Comments

AGENCY: Department of Transportation, Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) is rescinding FAA Order 1050.1F, Environmental Impacts: Policies and Procedures in light of Executive Order 14154, *Unleashing American Energy*. The FAA is issuing new streamlined National Environmental Policy Act (NEPA) procedures, FAA NEPA Order 1050.1G, to align with amendments to the NEPA, 42 U.S.C. 4321 *et seq.*, and to reflect the February 25, 2025 Interim Final Rule issued by the Council on Environmental Quality (CEQ) rescinding its regulations implementing NEPA. The new procedures maintain environmental amenities and protection and reduce regulatory delays that may impede aviation safety improvements and infrastructure development as well as integration of new entrant technologies. The Order is immediately effective upon publication and applies to all FAA actions that require environmental review and commence on or after the publication of this Notice. This Order does not apply to or alter any decisions made or final environmental documents issued prior to the effective date of this Order. Order 1050.1G promotes collaboration and efficiencies in the implementation of NEPA and modernizes the procedures for environmental reviews. This update is intended to provide clear, consistent, and simplified guidance for complying with the amended directives set forth in NEPA, and to the extent applicable, CEQ guidance that remains valid following the rescission of CEQ's NEPA implementing regulations. The FAA is providing an opportunity for public review and comment of this Order, which will inform future revisions.

DATES: This rescission notice and the Order are immediately effective upon publication in the **Federal Register** July 3, 2025. Comments on the Order must be received not later than August 4, 2025.

This order is available at www.regulations.gov under Docket No. FAA-2025-1571.

ADDRESSES: The FAA has established a docket for this action at

www.regulations.gov under docket number FAA-2025-1571. You must submit comments, identified by Docket No. FAA-2025-1571. Comments will be posted without change to www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

Judith Walker, Environmental Protection Specialist, 202-267-4185, judith.walker@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

The National Environmental Policy Act, as amended, 42 U.S.C. 4321 *et seq.* (NEPA), requires all Federal agencies, in consultation with the Council on Environmental Quality (CEQ), to “identify and develop methods and procedures . . . [t]o ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations.” 42 U.S.C. 4332(B). Further, where compliance with NEPA would not be “inconsistent with other statutory requirements,” NEPA directs all Federal agencies to develop “proposals for . . . major Federal actions significantly affecting the quality of the human environment” by developing a “detailed statement” which, among other things, analyzes the “reasonably foreseeable environmental effects” and “reasonable range of alternatives” to the proposal. 42 U.S.C. 4332(2)(C). The CEQ has previously issued regulations at 40 CFR parts 1500-1508 (CEQ regulations) implementing NEPA that were binding on Federal agencies. On February 25, 2025, CEQ issued an interim final rule to remove the existing implementing regulations consistent with Executive Order (E.O.) 14154, *Unleashing American Energy*. That rule became effective on April 11, 2025. *See Removal of Environmental Policy Act Implementing Regulations*, (90 FR 10610; Feb. 25, 2025). This action was necessitated by and consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 29, 2025), in which President Trump rescinded President Carter's E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make rules to begin with. The FAA's NEPA implementing procedures, which were a supplement to those CEQ regulations, thus stand in obvious need of fundamental revision. President Trump in E.O. 14154 further directed agencies

to revise their NEPA implementing procedures consistent with the E.O., including its direction to CEQ to rescind its regulations.

In addition, Congress recently amended NEPA in significant part, in the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, signed on June 3, 2023, in which Congress added substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ and individual agencies had previously addressed in their own procedures. The FAA recognized the need to update its regulations in light of these significant legislative changes. Since the FAA's regulations were originally designed as a supplement to CEQ's NEPA regulations, the FAA had been awaiting CEQ action before revising its regulations, consistent with CEQ direction. See 40 CFR 1507.3(b) (2024); see also 86 FR 34154 (June 29, 2021). However, with CEQ's regulations now rescinded, and with the FAA's NEPA implementing procedures still unmodified more than two years after this significant legislative overhaul, it is exigent that the FAA move quickly to conform its procedures to the statute as amended.

Finally, the Supreme Court on May 29, 2025 issued a landmark decision, *Seven County Infrastructure Coalition v. Eagle County, Colorado* (“*Seven County*”), No. 23–975, 605 U.S., 2025 WL 1520964 (2025), in which it decried the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” “agency decisionmaking.” Id. at *3, *8 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency conclusions underlying its NEPA process. Id. at *9, *8. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” which, in light of judicial micromanagement, had been “tak[ing] ever more time and to prepare ever longer EISs for future projects.” Id. at *8. The FAA, thus, is issuing FAA Order 1050.1G on an interim final basis, to align its actions with the Supreme Court's decision and streamline its process of ensuring reasonable NEPA decisions. This revision has thus been called for, authorized, and directed by all three branches of government at the highest possible levels.

The FAA has accordingly reviewed its current implementing Order 1050.1F and has developed Order 1050.1G in consultation with CEQ. This action thus fulfills President Trump's directive in E.O. 14154 for each agency to, in consultation with the CEQ, revise its agency-level NEPA implementing procedures in light of the Fiscal Responsibility Act. 90 FR at 8355. This Order is effective immediately upon publication in the **Federal Register**; however, the FAA is providing an opportunity for public review and comment of this Order which may inform its future revisions.

B. Background

NEPA establishes a national environmental policy of the federal government to use all practicable means and measures to foster and promote the general welfare, create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. NEPA Section 101, 42 U.S.C. 4331(a). NEPA Section 102(2) requires Federal agencies to prepare detailed environmental statements on major Federal actions significantly affecting the quality of the human environment. 42 U.S.C. 4332(2)(C).

E.O. 14154, *Unleashing American Energy*, directed the Council on Environmental Quality to rescind its regulations implementing NEPA 42 U.S.C. 4321 *et seq.*, as amended, not later than 30 days of the date of issue of the E.O. The E.O. directed federal agencies to review and revise their NEPA procedures to align with the requirements of NEPA, as amended by the Fiscal Responsibility Act of 2023 (Pub. L. 118–5), and to comport with the policy of the Trump Administration by “expediting permitting approvals,” “meeting deadlines established in the Fiscal Responsibility Act,” “prioritize[ing] efficiency and certainty” and otherwise seeking to minimize “delays and ambiguity to the permitting process.” 90 FR at 8355.

In response, the CEQ issued an interim final rule rescinding its regulations at 40 CFR parts 1500–1508 on February 25, 2025. That rule became effective on April 11, 2025. This action eliminated the binding government-wide NEPA regulations and placed the responsibility for implementing NEPA on agencies acting under the statute, their agency statutes, and applicable judicial interpretations. In fulfilling these responsibilities, agencies remain obligated to consult with CEQ prior to issuing their NEPA-implementing

procedures. See 42 U.S.C. 4322(B), 90 FR 8355.

The FAA is charged with promoting aviation safety, fostering air commerce, and developing and managing the National Airspace System (NAS). The agency's mandates require balancing environmental considerations with the imperative to maintain and improve aviation safety and efficiency. FAA is rescinding its existing NEPA implementing policies and procedures as set forth in FAA Order 1050.1F, *Environmental Impacts, Policies and Procedures* (2015) and adopting NEPA procedures which will be referenced as FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures*.

C. Expected Impact of the Order

This Order revises the internal procedures of the FAA, promoting consistent and timely implementation of NEPA. These policies and procedures provide consistency, aid efficiency, reduce duplication, and continue to promote agency practices on fostering informed decision-making, rather than generating paperwork. The FAA expects that this Order will reduce unnecessary delays. The FAA also expects the changes to increase the availability and use of categorical exclusions, early collaboration, and dispute resolution and coordination techniques as well as to improve timely completion of the environmental review process. Finally, the Order articulates the FAA's interpretations of existing law and provides guidelines for agency procedure and practice with respect to NEPA compliance. The Order does not in fact, nor does it intend to, govern the rights and obligations of any party outside the federal government. Further, nothing contained in the Order is intended or should be construed to limit the FAA's other authorities or legal responsibilities.

II. Summary of Revisions

Through this notice, the FAA is rescinding and revising its current procedures, FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures*. This new Order, 1050.1G, comprehensively updates and modernizes FAA Order 1050.1F to reflect current agency NEPA practice consistent with E.O. 14154 and the Fiscal Responsibility Act of 2023 amendments to NEPA and is consistent with Department of Transportation (DOT) Order 5610.1C, “Procedures for Considering Environmental Impacts” (originally issued in 1979, 44 FR 56420 (Oct. 1, 1979), and updated in 1982, 1985, and 2025), to the extent possible.

These reforms are intended to ensure that NEPA documents inform and, to the extent appropriate, involve the public, focus on the significant issues that require analysis, and foster informed decisionmaking based on an understanding of the potential action's environmental impacts.

The Order updates terminology for consistency with modern NEPA practice and to align with the expanded set of definitions set forth in amended NEPA at 42 U.S.C. 4336e. The FAA expanded the list of actions that do not meet the revised "major Federal action" definition in NEPA at 42 U.S.C. 4336e(10). See section 1.1. Because NEPA does not explicitly address combining two or more categorical exclusions (CATEXs) to satisfy NEPA obligations for a proposed action for which there is no single applicable CATEX, FAA has considered the potential risk to the environment and has determined that multiple CATEXs may be applied to a single proposed action if there are no extraordinary circumstances when examining the project in total. The process for combining CATEXs is set forth at Section 1.2.

In the Order, at Appendix B, the FAA incorporates two statutory presumptions of a categorical exclusion (CATEX) set forth in section 788 of the FAA Reauthorization Act of 2024. Due to the reorganization of the Order, numerical references to the CATEXs have been changed. The Order does not revise or otherwise modify any existing CATEXs.

The FAA has revised and clarified the methods by which it can establish new or revise existing CATEXs in section 1.4. These methods expand the options and improve efficiency of updating the Agency's NEPA reviews for actions where a CATEX is warranted but prior procedures made establishment of CATEXs unduly onerous.

The FAA has adopted the mechanisms to enforce statutory page and time limits for environmental assessments (75 pages and 1 year) in section 1.5 and environmental impact statements (150 pages and 2 years) in sections 2.4 and 2.5.

The 2020 CEQ rule contained a provision creating agency obligations to affirmatively declare certain specific information was true for each agency NEPA document. The FAA has determined that a provision requiring a limited number of declarations that differ from those that were included in the 2020 rule is advisable and has set forth such requirements in FAA Order 1050.1G at §§ 1.5(e), 1.5(f), 2.4(e), and 2.5(d). The terminology utilized by the CEQ in its 2020 rule with respect to

affirmative attestations was "certifications;" however, a "certification" is a term of art in FAA regulations. As a result, the Order has instead identified "declarations" to replace the word "certifications" to avoid confusion between other agency regulatory terminology and the affirmative attestation requirement of the FAA's NEPA order.

The Order implements the narrowed scope of interagency coordination with respect to participating agencies set forth in amended NEPA and recognizes the benefits to the FAA, to regulated entities, and the affected public as a result of early planning, integrated resource conservation and permitting, as well as other mechanisms that inform and can expedite a comprehensive environmental review.

The Order at Section 5 has been revised to provide certainty regarding the use of environmental documents other than project-specific environmental documents prepared directly by the FAA. Other revisions include removing references to the rescinded CEQ regulations, allowing reliance on previously prepared EISs, EAs, and CATEXs, setting forth guidance and procedures for applicant-prepared environmental documents, and setting forth procedures for the use of programmatic environmental documents. The majority of these provisions are found in Parts 3 and 5 of the Order.

Appendix A lists the existing FAA significance thresholds for FAA actions, which were previously found at Chapter 4. The FAA significance thresholds remain unchanged, with one minor exception to account for changes in NEPA practice due to the Supreme Court's decision in *Seven County*, No. 23–975, 605 U.S. ___, 2025 WL 1520964 (2025).

Appendix B sets forth the existing FAA extraordinary circumstances and CATEXs, which were previously set forth in Chapter 5. These remain largely unchanged, except as noted in this Notice. In addition, FAA has made minor edits to its list of extraordinary circumstances to remove language that does not comport with the Supreme Court decision in *Seven Counties*, No. 23–975, 605 U.S. ___, 2025 WL 1520964 (2025).

Appendix C sets forth portions of the FAA requirements for assessing impacts related to noise and noise-compatible land use.

This Order contains information applicable to all FAA lines of business. While the Order has been significantly reorganized and streamlined, most of the changes are either non-substantive

or are technical corrections to align the FAA NEPA procedures with the recent significant changes to NEPA prescribed by Congress, instructions provided by the President, and guidance provided by the Supreme Court.

Issued in Washington, DC, on June 30, 2025.

Julie Ann Marks,

Executive Director, Office of Environment and Energy, Federal Aviation Administration.

[FR Doc. 2025–12362 Filed 7–1–25; 2:30 pm]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2025–0055]

Notice of Petition for Waiver of Compliance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that Canadian Pacific Kansas City Limited (CPKC) petitioned FRA for relief from certain regulations concerning air brake testing.

DATES: FRA must receive comments on the petition by August 4, 2025. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Steven Zuiderveen, Railroad Safety Specialist, FRA Motive Power & Equipment Division, telephone: 202–493–6337, email: steven.zuiderveen@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal

Regulations (CFR), this document provides the public notice that by letter dated April 4, 2025, CPKC petitioned FRA for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices). CPKC also requests an exemption from the requirements of title 49, United States Code (U.S.C.), section 20303, which states that a rail vehicle with defective or insecure equipment may be moved when necessary to make repairs to the nearest available place at which the repairs can be made. FRA assigned the petition Docket Number FRA–2025–0055.

Specifically, CPKC seeks relief from §§ 232.5, *Definitions*; 232.15, *Movement of defective equipment*; 232.103(f), *General requirements for all train brake systems*; 232.205(a), *Class I brake test—initial terminal inspection*; and 232.213(a)(6)(ii), *Extended haul trains*. CPKC also seeks an exemption from the requirements of 49 U.S.C. 20303, for train CPKC 576, which hauls diluent reduced solid bitumen, is designated as an extended haul train, and operates between the loading facility in Rosyth, Alberta, Canada, and the ports near Port Arthur, Texas, United States. The requested relief would allow “technology-based advanced air brake testing [(the Brake Effectiveness Test (BET) Process)] performed by wayside wheel temperature detectors [(WTDs)] on heavy grade” as an alternative approach to manual Class I brake tests performed by Certified Car Inspectors (Qualified Mechanical Inspectors or qualified persons).

Currently, CPKC 576 receives a Class 1 brake test in Heavener, Oklahoma, U.S., but with the requested relief, CPKC would use the BET Process, including WTD data from the Heavener Subdivision, to perform the required brake test. CPKC states that the train will depart the Heavener location with at minimum 95% operative brakes based on the electronic brake effectiveness status from the BET Process, which is a more stringent percentage than the requirement in § 232.103(e).¹ CPKC further states that incorporating the BET Process “will result in no impact on the work performed in the U.S. and the operations in the U.S. would remain identical to the current operations.” In addition, CPKC cites the waiver’s opportunity for data collection, as the data would “be used to further evaluate

the effectiveness of BET on a long descending heavy grade of 1.0% over 5 miles,” which has not been tested on CPKC’s network.

CPKC also explains that certain exemptions allowing the BET Process are currently in use, but effective December 1, 2025, revisions to Canadian regulations “will allow railroads operating in Canada to use a BET Process and its technology as an alternative to manual Class I brake tests without the need for an exemption.” The revisions resulted from “consultation with relevant Canadian bargaining agents” and “evaluation of data collected over multiple years,” among other factors. In support of the request, CPKC adds that the BET Process has resulted in benefits over a manual brake test, including better identification of conditions warranting action and over 16,000 additional automated single car air brake tests performed by mechanical employees since 2011.

Pursuant to 49 U.S.C. 20306, FRA may grant an exemption from the requirements of 49 U.S.C. 20303 only on the basis of (1) evidence developed at a hearing; or (2) an agreement between national railroad labor representatives and the developer of the equipment or technology at issue. FRA notes that the public hearing FRA previously held to address a similar request for exemption from Union Pacific Railroad (Docket Number FRA–2016–0018) addresses substantially the same issues as this current request. Thus, FRA believes a separate public hearing on the current request is unnecessary, and in considering CPKC’s request in this docket, FRA intends to rely on the findings of the hearing conducted in Docket Number FRA–2016–0018.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments.

Communications received by August 4, 2025 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. *Privacy Act*

Anyone can search the electronic form of any written communications and comments received into any of FRA’s dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these

comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2025–12484 Filed 7–2–25; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2025–0048]

Notice of Petition for Waiver of Compliance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that Canadian Pacific Kansas City Limited (CPKC) and Union Pacific Railroad (UP) petitioned FRA for relief from certain regulations concerning air brake testing.

DATES: FRA must receive comments on the petition by August 4, 2025. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the

SUPPLEMENTARY INFORMATION section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Steven Zuiderveen, Railroad Safety Specialist, FRA Motive Power & Equipment Division, telephone: 202–

¹ Section 232.103(e) requires trains to have operative and effective brakes on 85% of cars.

493–6337, email: steven.zuiderveen@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated March 21, 2025, CPKC and UP (the Railroads) petitioned FRA for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices). The Railroads also request an exemption from the requirements of title 49, United States Code (U.S.C.), section 20303, which states that a rail vehicle with defective or insecure equipment may be moved when necessary to make repairs to the nearest available place at which the repairs can be made. FRA assigned the petition Docket Number FRA–2025–0048.¹

Specifically, the Railroads seek relief from §§ 232.5, *Definitions*; 232.205(a), *Class I brake test—initial terminal inspection*; and 232.213(a)(2), *Extended haul trains*. The Railroads also seek an exemption from the requirements of 49 U.S.C. 20303, for a potash unit train pair (CPKC train symbols 618 and 619), which are designated as extended haul trains, that operate between loading facilities in Saskatchewan and Manitoba, Canada, and the ports of Portland, Oregon, United States. The requested relief would allow “technology-based advanced air brake testing [(the Brake Effectiveness Test (BET) Process)] performed by wayside wheel temperature detectors” as an alternative approach to manual Class I brake tests performed by Certified Car Inspectors (Qualified Mechanical Inspectors or qualified persons). The tests would take place at the designated inspection location in Lethbridge, Alberta, Canada, and trains may only depart the terminal with 100% operative brakes based on a combination of the BET Process and Class 1 brake tests. The Railroads further state that incorporating the BET Process will have no impact on or result in changes to the work and operations in the United States.

The Railroads also explain that on December 10, 2021, Transport Canada granted two exemptions to Canadian Pacific Railway under the Canadian Railway Safety Act that permit the use of the BET Process as an alternative practice to meet certain freight car safety and air brake inspections performed in Canada as required by Canadian rules.

The BET Process is “being used as an alternative to the manual Class I air brake test to inspect 99% of bulk commodity trains operating under [Transport Canada] exemptions to Vancouver, Canada. The Railroads add that the BET Process has resulted in benefits over a manual brake test, including better identification of conditions warranting action and more effective braking, which reduces brake application when descending mountain grades in cold weather.

Pursuant to 49 U.S.C. 20306, FRA may grant an exemption from the requirements of 49 U.S.C. 20303 only on the basis of (1) evidence developed at a hearing; or (2) an agreement between national railroad labor representatives and the developer of the equipment or technology at issue. FRA notes that the public hearing FRA previously held to address a similar request for exemption from UP (Docket Number FRA–2016–0018) addresses substantially the same issues as this current request. Thus, FRA believes a separate public hearing on the current request is unnecessary, and in considering the Railroads’ request in this docket, FRA intends to rely on the findings of the hearing conducted in Docket Number FRA–2016–0018.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments.

Communications received by August 4, 2025 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA’s dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2025–12483 Filed 7–2–25; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA–2025–0054]

Agency Information Collection Activities; Notice and Request for Comment; Petitions for Hearings on Notification and Remedy of Defects

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice and Request for comment on an extension of a currently approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (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 OMB approval.

DATES: Comments must be received on or before September 2, 2025.

ADDRESSES: You may submit comments identified by DOT Docket No. NHTSA–2021–0068 by any of the following methods:

- *Electronic submissions:* Go to the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments

¹ CPKC and UP formerly requested similar relief in Docket Number FRA–2022–0018.

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 (<https://www.federalregister.gov/citation/65-FR-19477>) or you may visit <https://transportation.gov/privacy>.

Docket: For access to the docket to read background documents or 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: For additional information or access to background documents, contact Jeremy Gunderson, 202-366-8050, Recall Management Division (NEF-107), Jeremy.Gunderson@dot.gov, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Petitions for Hearings on Notification and Remedy of Defects.
OMB Control Number: 2127-0039.
Form Number(s): N/A.

Type of Request: Extension of a currently approved information collection.

Type of Review Requested: Regular.
Requested Expiration Date of Approval: 3 years from the date of approval.

Summary of the Collection of Information: There are various sources from which a defect related to motor vehicle safety or noncompliance with an applicable Federal motor vehicle safety standard (FMVSS) may be identified, including owner complaints, testing, investigation, and research. Section 30118 of Title 49 of the United States Code requires the manufacturer of motor vehicles or replacement equipment to notify owners, purchasers, and dealers of any determination that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety or does not comply with an applicable FMVSS. When the manufacturer makes this determination, it must also notify NHTSA. When NHTSA makes this determination, it orders the manufacturer to provide the required notice. Section 30120 of Title 49 of the United States Code requires the manufacturer to remedy, without charge, the defect or non-compliance and specifies the ways in which a noncompliance or defect can be remedied. Sections 30118(e) and 30120(e) specify that any interested person may petition Secretary of Transportation (NHTSA by delegation) to hold a hearing to determine whether a manufacturer of motor vehicles or motor vehicle equipment has met its obligation to notify owners, purchasers, and dealers of vehicles or equipment of a safety-related defect or noncompliance with a FMVSS in the manufacturer's products and to remedy that defect or noncompliance.

To implement these statutory provisions, NHTSA promulgated <https://www.ecfr.gov/current/title-49/part-557>. Petitions for Hearings on Notification and Remedy of Defects. Part 577 establishes procedures for the submission and disposition of petitions for hearings on whether the manufacturer has reasonably met its obligation to notify owners, purchasers, and dealers of safety-related defects or noncompliance, or to remedy such defect or noncompliance free of charge.

Description of the Need for the Information and Proposed Use of the Information: Persons who believe that a manufacturer has not met its obligation to notify owners, purchasers, or dealers

of a safety related defect or noncompliance with FMVSS, or to remedy the problem in accordance with statutory requirements, may petition the agency pursuant to 49 CFR part 557. The agency uses the information collected in the petition, and may use other information available to it, to decide whether a hearing is necessary to determine whether a manufacturer has reasonably met its obligations. Should the agency, on the basis of information provided at that hearing or other information, determine the manufacturer has not reasonably met its obligations, the agency orders the manufacturer to take specified action to bring itself into compliance with those obligations.

Affected Public: Businesses or others for profit.

Abstract:

Estimated Number of Respondents: 1 respondent.

Frequency: On occasion.

Estimated Annual Burden Hours: During NHTSA's last renewal of this information collection, the agency estimated it would receive one petition a year, with an estimated one hour of preparation for each petition, for a total of one burden hour per year. That estimate remains unchanged with this notice.

Estimated Total Annual Burden Cost: \$7.95.

NHTSA estimates that the only cost burden to respondents (*i.e.*, petitioners) except for the time invested (opportunity cost) associated with the time to submit the petition will be postage costs. NHTSA estimates that each mailed response is estimated to cost \$7.95 (priority flat rate envelope from USPS). Therefore, the total cost for the estimated 1 request per year is \$7.95.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as

amended; 49 CFR 1.49; and DOT Order 1351.29.

Tanya Topka,

Director, Office of Defect Investigations.

[FR Doc. 2025–12386 Filed 7–2–25; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2025–0171]

Procedures for Considering Environmental Impacts

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: The U.S. Department of Transportation (DOT) is updating DOT Order 5610.1C “Procedures for Considering Environmental Impacts,” which establishes procedures for complying with the National Environmental Policy Act (NEPA). The Order was last updated in 1985. This update is necessary in light of the recent rescission of the Council on Environmental Quality’s (CEQ’s) NEPA procedures, which DOT’s procedures were designed to supplement. In addition, the update incorporates provisions from the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU); Moving Ahead for Progress in the 21st Century Act (MAP–21); the Fixing America’s Surface Transportation (FAST) Act, the Infrastructure Investment and Jobs Act (IIJA); and the Fiscal Responsibility Act of 2023 (FRA 2023) related to the environmental review process. The updated Order promotes collaboration and efficiencies in the implementation of NEPA and modernizes the processes and procedures for environmental review. This update enables DOT to conduct coordinated, consistent, predictable, and timely environmental reviews, thus reducing unnecessary burdens and delays.

DATES: Comments must be submitted by August 4, 2025. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by only one of the following means, identifying your submission by docket number DOT–OST–2025–0171. All electronic submissions must be made to the U.S. Government electronic site at <http://www.regulations.gov>.

• **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow

the online instructions for submitting comments.

• **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

• **Hand Delivery or Courier:** U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• **Fax:** (202) 493–2251.

Instructions: All comment submissions must include the agency name, docket name, and docket number (DOT–OST–2025–0171). Submit two copies of your comments if you submit them by mail. For confirmation that OST received your comments, include a self-addressed stamped postcard. Note that all comments received will be posted without change to www.regulations.gov, including any personal information provided. DOT solicits comments from the public to better inform the Department’s process. For information on DOT’s compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

Docket: For access to the docket to read background documents and comments received, go to <https://www.regulations.gov/> at any time or to the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

The Order will also be available at www.transportation.gov/transportation-policy/nepa.

FOR FURTHER INFORMATION CONTACT:

Rhonda Solomon, Interim Director, Infrastructure Permitting Improvement Center, 202.366.5397, rhonda.solomon@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

The National Environmental Policy Act, as amended, 42 U.S.C. 4321–4347 (NEPA), requires all Federal agencies to assess the environmental impact of their actions. 42 U.S.C. 4332(2)(C). The CEQ previously issued regulations at 40 CFR parts 1500–1508 (CEQ regulations) implementing NEPA that were binding on Federal agencies. On February 25, 2025, CEQ issued an interim final rule to remove the existing implementing regulations consistent with Executive Order (E.O.) 14154, *Unleashing*

American Energy. See *Removal of National Environmental Policy Act Implementing Regulations*, (90 FR 10610; Feb. 25, 2025). This action was necessitated by and consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 29, 2025), in which President Trump rescinded President Carter’s E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make the CEQ Regulations to begin with. DOT’s NEPA implementing procedures, which were a supplement to those CEQ regulations, thus stand in obvious need of fundamental revision. President Trump in E.O. 14154 further directed agencies to revise their NEPA implementing procedures consistent with the E.O., including its direction to CEQ to rescind its regulations.

In addition, Congress recently amended NEPA in significant part, in the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, signed on June 3, 2023, in which Congress added substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ and individual acting agencies had previously addressed in their own procedures. DOT recognized the need to update its procedures in light of these legislative changes. Since DOT’s procedures were originally designed as a supplement to CEQ’s NEPA regulations, DOT had been awaiting CEQ action before revising its procedures, consistent with CEQ direction. See 40 CFR 1507.3(b) (2024); see also 86 FR 34154 (June 29, 2021). However, with CEQ’s regulations now rescinded, and with DOT’s implementing procedures still unmodified more than two years after the legislation, it is important that DOT move quickly to conform its procedures to the statute as amended.

Finally, the Supreme Court on May 29, 2025 issued its decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 No. 23–975, 605 U.S. Ct. 1497 ___, 2025 WL 1520964 (2025), in which it described the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” “agency decisionmaking.” *Id.* at 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency

conclusions underlying its NEPA process. *Id.* at 1513–14. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” which, in light of judicial micromanagement, had been “tak[ing] ever more time and to prepare ever longer EISs [environmental impact statements] for future projects.” *Id.* at 1513. DOT, thus, is updating its procedures to align its actions with the Supreme Court’s decision and streamline its process of ensuring reasonable NEPA decisions. This revision has thus been called for, authorized, and directed by all three branches of government at the highest possible levels.

DOT has reviewed its current implementing procedures and has developed this Order in consultation with CEQ. This Order is effective immediately upon publication of this notice in the **Federal Register**; however, the Department is providing an opportunity for public review and comment of this Order, which will inform any future revisions.

B. Background

NEPA establishes a national environmental policy of the federal government to use all practicable means and measures to foster and promote the general welfare, create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. NEPA Section 101, 42 U.S.C. 4331(a). NEPA Section 102(2) requires Federal agencies to prepare detailed environmental statements on major Federal actions significantly affecting the quality of the human environment. 42 U.S.C. 4332(2)(C).

There have been numerous statutory changes to NEPA since the last update to DOT’s NEPA procedures in 1985. In 2005, Congress enacted 23 U.S.C. 139, “Efficient environmental reviews for project decisionmaking,” a streamlined environmental review process for highway, transit, and multimodal transportation projects through the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, sec. 6002 (2005).

In 2012, Congress declared it in the national interest to accelerate transportation project delivery and reduce costs, and ensure that transportation planning, design, and construction are completed in an efficient and effective manner in the Moving Ahead for Progress in the 21st

Century Act (MAP–21), Public Law 112–141, sec. 1301 (2012) (set out at 23 U.S.C. 101 note).

In 2015, Congress directed the Department to implement a variety of reforms to streamline and accelerate its environmental review process. *See* Fixing America’s Surface Transportation Act (FAST) Act, Public Law 114–94 (2015).

On November 15, 2021, the Bipartisan Infrastructure Law was enacted as the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58). The IIJA modified the environmental requirements at 23 U.S.C. 139 (“Efficient environmental reviews for project decisionmaking and One Federal Decision”), which applied to the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA). The IIJA also modified 23 U.S.C. 138 (Section 4(f) Requirements) and added a new 23 U.S.C. 157 (National Environmental Policy Act (NEPA) Reporting Program).

The Fiscal Responsibility Act of 2023 (FRA 2023) was signed into law on June 3, 2023. FRA 2023 amended the NEPA statute, including limiting the scope of *major Federal action*, limiting the scope of an environmental impact statement (EIS) review, and limiting the alternatives in an EIS. In addition, the FRA 2023 amendments established page and time limits for environmental assessments (EAs) and EISs, outlined specific roles for lead agencies, and directed a lead agency to prescribe procedures to allow a project sponsor to prepare an EA or EIS under the supervision of the agency. Further, FRA 2023 provided guidelines for the use of analysis from a prior programmatic environmental review document in a subsequent document for a specified time period, and a streamlined process for adopting another agency’s categorical exclusions (CEs).

C. Expected Impact of the Order

This Order revises the internal procedures of the Department, promoting consistent implementation across the Department of its responsibilities under NEPA while still allowing flexibility for each of the Department’s Operating Administrations (OAs) to carry out its own mission. These policies and procedures provide consistency, aid efficiency, reduce duplication, and refocus agency practice on fostering informed decisionmaking, rather than generating paperwork. The Department expects that this Order will reduce unnecessary delays. The Department also expects the changes to increase the

availability and use of CEs, early collaboration, and dispute resolution and coordination techniques, and to improve timely completion of the environmental review process.

The Order outlines the Department’s interpretations of existing law and provides guidelines for agency procedure and practice with respect to NEPA compliance. The Order does not in fact, nor does it intend to, govern the rights and obligations of any party outside the federal government. Further, nothing contained in the Order is intended or should be construed to limit the Department’s other authorities or legal responsibilities.

D. Reliance Interests

In deciding to revise its Order, the Department acknowledges that third parties may claim to have reliance interests in the Department’s existing NEPA procedures. But revised agency procedures will have no effect on sufficiently advanced ongoing NEPA reviews, where the Department, following CEQ guidance, has held that it will continue to apply existing procedures. Moreover, as the Supreme Court has just explained, NEPA “is a purely procedural statute” that “imposes no substantive environmental obligations or restrictions.” *Seven County*, 145 S.Ct. at 1507. Any asserted reliance interests grounded in substantive environmental concerns, such interests are not in accord with the best meaning of the law and are entitled to “no . . . weight.” *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1914 (2020).

Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in *prospective* procedures. To the extent such interests exist, the Department holds that they are “outweigh[ed]” by “other interests and policy concerns.” *Id.* Namely, the complex web of regulations that preexisted the 2023 amendments to NEPA and these new procedures repeatedly “led to more agency analysis of separate projects, more consideration of attenuated effects, more exploration of alternatives to proposed agency action, more speculation and consultation and estimation and litigation,” which in turn has meant that “[f]ewer projects make it to the finish line,” or even “to the starting line.” *Seven County*, 145 S.Ct. at 1513–14. This has increased the cost of projects dramatically, “both for the agency preparing the EIS and for the builder of the project,” resulting in systemic harms to America’s infrastructure and economy. *Id.* Correspondingly, the

wholesale revision and simplification of this regime, effectuated by these Procedures, is necessary to assure ensure efficient and predictable reviews, with significant upsides for the economy and for projects of all sorts. This set of policy considerations drastically outweighs any claimed reliance interests in the preexisting procedures.

The Department has revised its NEPA implementing procedures to conform to the 2023 statutory amendments, to respond to President Trump's direction in E.O. 14154 to, "[c]onsistent with applicable law, prioritize efficiency and certainty over any other objectives, including those of activist groups, that do not align with the policy goals set forth in section 2 of [that] order or that could otherwise add delays and ambiguity to the permitting process," and to address the pathologies of the NEPA process and NEPA litigation as identified by the Supreme Court. Where the Department has retained an aspect of its preexisting NEPA implementing procedures, it is because that aspect is compatible with these guiding principles; where the Department has revised or removed an aspect, it is because that aspect is not so compatible.

II. Summary of Revisions

The Department is revising its current procedures, DOT Order 5610.1C, "Procedures for Considering Environmental Impacts," originally issued in 1979, 44 FR 56420 (Oct. 1, 1979), and updated in 1982 and 1985 (1985 procedures).¹ This Order updates and modernizes the 1985 procedures to reflect current departmental NEPA practice. The Department has proposed several revisions to the 1985 NEPA procedures that have not been finalized to date. Comments received on these revisions to the DOT NEPA procedures in response to the publication of proposed Order 5610.1D in the **Federal Register** on December 20, 2016, 81 FR 92966, and the publication of a proposed rule in the **Federal Register** on November 23, 2020, 85 FR 74640 were considered in developing the revisions to this Order. The Order comprehensively updates the 1985 procedures. This Order updates the organization of the 1985 procedures to align with current Department organization, practice, and policies to implement the DOT NEPA policies and the FRA 2023 amendments to NEPA more effectively and efficiently. The Order reduces ambiguity regarding the

entities responsible for taking the actions specified in the Order. To improve readability, this Order designates "OA" as the entity responsible for conducting NEPA analyses and defines "OA" to include a Secretarial Office that carries out its own NEPA responsibilities (as opposed to an office that relies on an OA's expertise to prepare the NEPA document). This Order also updates the names of the relevant offices that have responsibilities, including the Office of Environment and Office of the General Counsel (and relevant subdivisions thereof). The Order applies to the Department's programs and actions, and, to the extent possible, avoids creating conflicts with existing OA programs and actions. DOT did not include the Attachments of the 1985 procedures, which provided a list of the States and localities with EIS requirements as well as guidance for contents of Statements. This Order also updates terminology for consistency with modern NEPA practice and the Department's current operations, including updating the definition of "major federal action" and distinguishing between "related actions" and "connected actions."

This Order updates the 1985 procedures to account for relevant project delivery provisions and other streamlining efforts included in SAFETEA-LU, MAP-21, the FAST Act, IIJA, and the FRA 2023 amendments to NEPA that apply departmentwide. Accordingly, the Order reflects the Department's modern NEPA practices and unique project delivery statutory authorities by providing direction on analyzing multimodal projects in an expedited and streamlined manner, enhancing early coordination, and incorporating a process that allows the OAs to utilize each other's CEs. The Order also incorporates agency practice, including environmental review tracking requirements, and provides accountability for agency compliance with NEPA as recently amended by Congress.

The Order seeks to faithfully implement the recent significant changes to NEPA prescribed by Congress, instruction provided by the President, and guidance provided by the Supreme Court. The Order modernizes the 1985 procedures to streamline and improve efficiency of the environmental review process; expedite project delivery; provide enhanced customer service to stakeholders through consistent implementation of NEPA across the Department and, where possible, provide support for the Department's OAs to apply OA-specific

NEPA implementing procedures to their specific programs; and balance the needs of all OAs. These reforms are intended to ensure that NEPA documents inform and, to the extent appropriate, involve the public, focus on the significant issues that require analysis, and foster informed decisionmaking based on an understanding of the potential action's environmental impacts.

Other revisions include removing references to the rescinded CEQ regulations, allowing reliance on previously prepared EISs, EAs, and CEs, expanding upon DOT's emergency environmental review process, setting forth procedures for applicant-prepared environmental documents, and setting forth procedures for the use of programmatic environmental documents.

Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA) NEPA implementing procedures will remain in 23 CFR part 771 because those agencies have specific statutory provisions related to 23 U.S.C. 139 projects that do not apply departmentwide. In addition, Federal Aviation Administration (FAA) NEPA implementing procedures will remain in separate procedures in FAA Order 1050.1. Both 23 CFR part 771 and Order 1050.1 have been revised to be consistent with this Order to the extent possible.

This Order cancels DOT Order 5610.1C, "Procedures for Considering Environmental Impacts," issued September 18, 1979, and amended July 13, 1982 and July 30, 1985. In addition, it cancels and incorporates the following OA's individual NEPA implementing procedures: PHMSA Order 5610.3, "Procedures for Considering Environmental Impacts," dated January 16, 2025; FMCSA Order 5610.1, "National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts," issued March 2004; MARAD Order 600-1, issued July 23, 1985; and St. Lawrence Seaway Order SLSDC 10-5610.1C, issued May 28, 1981. This Order will be effective immediately as an interim order but may be updated based on comments received.

Sections 1-25 of the Order apply to all of the OAs departmentwide. The Subparts in A-E contain information specific to each OA. The contents of these subparts previously existed in the OA's individual NEPA implementing procedures. Most of the changes from existing orders to the procedures listed in Subparts A-E are non-substantive changes. There have been no

¹ Available at https://www.transportation.gov/sites/dot.gov/files/docs/Procedures_Considering_Environmental_Impacts_5610_1C.pdf.

modifications to any OA CEs, including technical amendments.

However, the Department does plan to supplement this Order in the near future to establish new CEs, and to revise existing CEs, including the technical corrections needed. The following provides an overview of the contents of Subparts A through E.

Subpart A provides the OA-specific NEPA procedures not covered in Sections 1–25 for the Great Lakes St. Lawrence Seaway Development Corporation (GLS). GLS NEPA procedures were originally located in St Lawrence Seaway Order SLSDC 10–5610.1C, issued May 28, 1981. In addition to listing the OA specific procedures in this subpart, GLS makes minor updates.

Subpart B provides the OA-specific NEPA procedures not covered in Sections 1–25 for the Federal Motor Carrier Safety Administration (FMCSA). FMCSA NEPA procedures were originally located in FMCSA Order 5610.1, “National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts,” issued March 2004. In addition to listing the OA specific procedures in this subpart, FMCSA makes minor updates.

Subpart C provides the OA-specific NEPA procedures not covered in Sections 1–25 for the Maritime Administration (MARAD). MARAD NEPA procedures were originally located in MARAD Order 600–1, issued July 23, 1985. In addition to listing the OA specific procedures in this subpart, MARAD makes minor updates. MARAD also makes updates to the Determination of the Level of NEPA Review, specifically the identification of Deepwater Port license applications and large port infrastructure projects as major actions. MARAD adds a section specific to the OA procedures for long-lead time purchases and pre-NEPA field investigations in NEPA and Agency Decisionmaking to clarify the procedures for complex projects and the needs to secure construction materials and equipment prior to the completion of NEPA. In addition, MARAD adds an OA specific update to Procedures for Applicant-Prepared Environmental Documents to add Roles and Responsibilities, a section for applicant prepared NEPA documents, and clarify their levels of NEPA review.

Subpart D provides OA-specific NEPA procedures not covered in Sections 1–25 for the National Highway Traffic Safety Administration (NHTSA). NHTSA NEPA procedures were originally located in regulations at 49 CFR part 520. These regulations will be rescinded

through a separate rulemaking. In addition to listing the OA specific procedures in this subpart, NHTSA makes minor updates.

Subpart E provides OA-specific NEPA procedures not covered in Sections 1–25 for the Pipeline and Hazardous Materials Safety Administration (PHMSA). PHMSA’s NEPA procedures were originally located in PHMSA Order 5610.3, “Procedures for Considering Environmental Impacts,” dated January 16, 2025.

Appendix A lists the existing Departmental CEs. No modifications have been made from the 1985 procedures.

Issued in Washington, DC.

Loren Smith,

Deputy Assistant Secretary for Transportation Policy.

[FR Doc. 2025–12365 Filed 7–1–25; 2:30 pm]

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 four individuals and four entities 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 individuals and entities are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on July 1, 2025. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; 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 July 1, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following individuals and entities are blocked under the relevant sanctions authorities listed below.

Individuals

1. BOZOYAN, Yurii Meruzhanovich, St. Petersburg, Russia; DOB 30 Jan 1992; nationality Russia; Gender Male; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Tax ID No. 780538991581 (Russia) (individual) [CAATSA—RUSSIA] [CYBER4] (Linked To: AEZA GROUP LLC).

Designated pursuant to section 1(a)(iii)(F) of Executive Order 13694 of April 1, 2015, “Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities,” 80 FR 18077, 3 CFR, 2015 Comp., p. 297, as amended by Executive Order 13757 of December 28, 2016, “Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities,” 82 FR 1, 3 CFR, 2016 Comp., p. 659, and as further amended by Executive Order 14144 of January 16, 2025, “Strengthening and Promoting Innovation in the Nation’s Cybersecurity,” 90 FR 6755, and Executive Order 14306 of June 6, 2025, “Sustaining Select Efforts To Strengthen the Nation’s Cybersecurity and Amending Executive Order 13694 and Executive Order 14144,” 90 FR 24723 (E.O. 13694, as further amended), for being or having been a leader, official, senior executive officer, or member of the board of directors of AEZA GROUP LLC, a person whose property and interests in property are blocked pursuant to E.O. 13694, as further amended.

2. GAST, Vladimir Vyacheslavovich, St. Petersburg, Russia; DOB 06 May 1999; nationality Russia; Gender Male; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Tax ID No. 860243420832 (Russia) (individual) [CAATSA—RUSSIA] [CYBER4] (Linked To: AEZA GROUP LLC). Designated pursuant to section 1(a)(iii)(F) of E.O. 13694, as further amended, for being or having been a leader, official, senior executive officer, or member of the board of directors of AEZA GROUP LLC, a person whose property and interests in property are blocked pursuant to E.O. 13694, as further amended.

3. KNYAZEY, Igor Anatolyevich, St. Petersburg, Russia; DOB 26 Jul 1986; nationality Russia; Gender Male;

Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Tax ID No. 780532513677 (Russia) (individual) [CAATSA—RUSSIA] [CYBER4] (Linked To: AEZA GROUP LLC).

Designated pursuant to section 1(a)(iii)(F) of E.O. 13694, as further amended, for being or having been a leader, official, senior executive officer, or member of the board of directors of AEZA GROUP LLC, a person whose property and interests in property are

blocked pursuant to E.O. 13694, as further amended.

4. PENZEV, Arsenii Aleksandrovich, Leninskiy str. 64, 1, A, 766, St. Petersburg 198335, Russia; DOB 27 Oct 2002; nationality Russia; website *aezadns.com*; Email Address *aezagroup@gmail.com*; Gender Male; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Tax ID No. 780721423242 (Russia) (individual) [CAATSA—RUSSIA] [CYBER4] (Linked To: AEZA GROUP LLC).

Designated pursuant to section 1(a)(iii)(F) of E.O. 13694, as further amended, for being or having been a leader, official, senior executive officer, or member of the board of directors of AEZA GROUP LLC, a person whose property and interests in property are blocked pursuant to E.O. 13694, as further amended.

Entities

BILLING CODE 4810-AL-P

1. AEZA GROUP LLC, Ul. Zolnaya d. 15, str. 1, Pomeshch 1N, Office 603, St. Petersburg 193318, Russia; Kronversky pr-kt, 65 letter B, room 2n, office 1, room 5, St. Petersburg 197198, Russia; Website aeza.ru; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Organization Established Date 17 Jun 2021; Digital Currency Address - TRX TU4tDFRvcKhAZ1jdihojmBWZqvJhQCnJ4F; Tax ID No. 7813654490 (Russia); Business Registration Number 1217800095248 (Russia) [CAATSA - RUSSIA] [CYBER4].

Designated pursuant to section 1(a)(ii)(D) of E.O. 13694, as further amended, for being responsible for or complicit, or having engaged in directly or indirectly, cyber-enabled activities originating from or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a threat to the national security, foreign policy, or economic health or financial stability of the United States, and that have the purpose of or involves causing a misappropriation of funds or economic resources, intellectual property, proprietary or business confidential information, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.

2. AEZA INTERNATIONAL, LTD., 347 Barking Road, London E13 8EE, United Kingdom; 311 Shoreham Street, Sheffield S2 4FA, United Kingdom; 71-75 Shelton Street, Covent Garden, London WC2H 9JQ, United Kingdom; Website aeza.net; Organization Established Date 01 Sep 2023; Company Number 15109642 (United Kingdom) [CYBER4] (Linked To: AEZA GROUP LLC).

Designated pursuant to section 1(a)(iii)(D) of E.O. 13694, as further amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, AEZA GROUP LLC, a person whose property and interests in property are blocked pursuant to E.O. 13694, as further amended.

3. AEZA LOGISTIC LLC, Ul. Zolnaya d. 15, str. 1, Pomeshch 1N, Office 603A, St. Petersburg 193318, Russia; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Organization Established Date 27 Sep 2024; Tax ID No. 7810965578 (Russia); Business Registration Number 1247800096081 (Russia) [CAATSA - RUSSIA] [CYBER4] (Linked To: AEZA GROUP LLC).

Designated pursuant to section 1(a)(iii)(D) of E.O. 13694, as further amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, AEZA GROUP LLC, a person whose property and interests in property are blocked pursuant to E.O. 13694, as further amended.

4. CLOUD SOLUTIONS LLC (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ОБЛАЧНЫЕ РЕШЕНИЯ), zd. 3, k. 1 kab, N13, ul. Mirnaya, Samara 443035, Russia; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Organization Established Date 23 Jul 2024; Tax ID No. 6312219617 (Russia); Business Registration Number 1246300020064 (Russia) [CAATSA - RUSSIA] [CYBER4] (Linked To: AEZA GROUP LLC).

Designated pursuant to section 1(a)(iii)(D) of E.O. 13694, as further amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, AEZA GROUP LLC, a person whose property and interests in property are blocked pursuant to E.O. 13694, as further amended.

Lisa M. Palluconi,
Acting Director, Office of Foreign Assets Control.

[FR Doc. 2025–12471 Filed 7–2–25; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; Requesting Comments Request for Form 8918

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before September 2, 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. 1545–0865 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.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Material Advisor Disclosure Statement.

OMB Control Number: 1545–0865.

Form Number: 8918.

Abstract: Internal Revenue Code (IRC) 6111 requires a sub-set of promoters called “material advisors” to disclose information about the promotion of certain types of transactions called “reportable transactions.” Material advisors to any reportable transaction must disclose certain information about the reportable transaction by filing a Form 8918 with the IRS. Material advisors who file a Form 8918 will receive a reportable transaction number from the IRS. Material advisors must provide the reportable transaction number to all taxpayers and material advisors for whom the material advisor acts as a material advisor.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Individuals and households.

Estimated Number of Responses: 2,279.

Estimated Time Per Response: 16 hours, 30 minutes.

Estimated Total Annual Burden Hours: 37,627.

Approved: July 1, 2025.

Marcus W. McCrary,
Tax Analyst.

[FR Doc. 2025–12481 Filed 7–2–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Form 7004

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Information Collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before September 2, 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. 1545–0233” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT:

View the latest drafts of the tax forms related to the information collection listed in this notice at <https://www.irs.gov/draft-tax-forms>. Requests for additional information or copies of this collection should be directed to Marcus McCrary, (470) 769–2001.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Form 7004—Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns.

OMB Control Number: 1545–0233.

Form Number: 7004.

Abstract: Taxpayers use Form 7004 to request an automatic extension of time to file their certain business income tax, information, and other returns. The information is needed by IRS to determine whether Form 7004 was timely filed so as not to impose a late filing penalty in error and also to ensure that the proper amount of tax was computed and deposited.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Individuals and households.

Estimated Number of Responses: 1,818,037.

Estimated Time per Response: 6 hours, 47 minutes.

Estimated Total Annual Burden Hours: 12,326,291.

Dated: June 27, 2025.

Marcus W. McCrary,
Tax Analyst.

[FR Doc. 2025-12491 Filed 7-2-25; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; 13285-A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before September 2, 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. 1545-2009 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.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate

of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Reducing Tax Burden on America's Taxpayers.

OMB Control Number: 1545-2009.

Form Number: 13285-A.

Abstract: Form 13285-A is used by taxpayers and external partners and stakeholders to identify meaningful taxpayer burden reduction opportunities. The IRS will make the forms available at education and outreach events.

Current Actions: There are no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Individuals and households, etc.

Estimated Number of Responses: 250.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 62.

Approved: July 1, 2025.

Marcus W. McCrary,
Tax Analyst.

[FR Doc. 2025-12482 Filed 7-2-25; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Interest Rate Paid on Cash Deposited to Secure U.S. Immigration and Customs Enforcement Immigration Bonds

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 2025, and ending on September 30, 2025, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is 3 per centum per annum.

DATES: Rates are applicable July 1, 2025, to September 30, 2025.

ADDRESSES: Comments or inquiries may be mailed to Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106-1328.

You can download this notice at the following internet addresses: <http://www.treasury.gov> or <http://www.federalregister.gov>.

www.treasury.gov or <http://www.federalregister.gov>.

FOR FURTHER INFORMATION CONTACT:

Ryan Hanna, Manager, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 26106-1328 (304) 480-5120; Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106-1328, (304) 480-5117.

SUPPLEMENTARY INFORMATION: Federal law requires that interest payments on cash deposited to secure immigration bonds shall be "at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum." 8 U.S.C. 1363(a). Related Federal regulations state that "Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero." 8 CFR 293.2. Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [FR Doc. 2015-18545]. In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the Treasury Direct website.

The Deputy Assistant Secretary for Public Finance, Gary Grippo, having reviewed and approved this document, is delegating the authority to electronically sign this document to Heidi Cohen, Federal Register Liaison for the Department, for purposes of publication in the **Federal Register**.

Heidi Cohen,

Federal Register Liaison.

[FR Doc. 2025-12454 Filed 7-2-25; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF THE TREASURY

Guidance on Referrals for Potential Criminal Enforcement

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: Pursuant to the recent executive order, "Fighting Overcriminalization in Federal Regulations," this notice announces

plans to address criminally liable regulatory offenses, including factors to be considered in deciding whether to refer alleged violations of criminal regulatory offenses to the Department of Justice.

SUPPLEMENTARY INFORMATION: On May 9, 2025, the President issued Executive Order (E.O.) 14294, Fighting Overcriminalization in Federal Regulations. 90 FR 20363 (published May 14, 2025). Section 7 of E.O. 14294 provides that within 45 days of the order, and in consultation with the Attorney General, each agency should publish guidance in the **Federal Register** describing its plan to address criminally liable regulatory offenses.

Consistent with that requirement, by May 9, 2026, the Department of the Treasury (Department), in consultation with the Attorney General, plans to provide to the Office of Management and Budget a report containing: (1) a list of all criminal regulatory offenses¹ enforceable by the Department or the Department of Justice (DOJ); and (2) for each such criminal regulatory offense, the range of potential criminal penalties

for a violation and the applicable *mens rea* standard² for the criminal regulatory offense.

This notice also announces a general policy, subject to appropriate exceptions and to the extent consistent with law, that when the Department is deciding whether to refer alleged violations of criminal regulatory offenses to DOJ, officers and employees of the Department should consider, among other factors:

- the harm or risk of harm, pecuniary or otherwise, caused by the alleged offense;
- the potential gain to the putative defendant that could result from the offense;
- whether the putative defendant held specialized knowledge, expertise, or was licensed in an industry related to the rule or regulation at issue; and
- evidence, if any is available, of the putative defendant's general awareness of the unlawfulness of his conduct as well as his knowledge or lack thereof of the regulation at issue.

This general policy is not intended to, and does not, create any right or benefit,

substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. This notice does not amend or modify any existing legal obligations, duties, or standards imposed by statute or regulation.

Christopher Pilkerton,
Acting General Counsel.

[FR Doc. 2025–12453 Filed 7–2–25; 8:45 am]

BILLING CODE 4810-AK-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10., that the Advisory Committee on Former Prisoners of War (Committee) will conduct a virtual meeting on August 27, 2025. Public participation will commence as follows:

Date	Time	Location	Open session
August 27, 2025	11:00 a.m.–5:00 p.m. Eastern Standard Time (EST).	Cisco Webex Link and Call-in Information Below.	Yes.

The meeting session is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under title 38 U.S.C., for Veterans who are former prisoners of war (FPOW) and the needs of these Veterans, in the areas of compensation, health care, and rehabilitation.

The Committee will assemble in open session for discussion and briefings from VA Central Office and Veterans Benefits Administration officials who will provide updates on issues impacting FPOW Veterans and their families.

On August 27, 2025, the public comment period will be open for 30 minutes from 4:10 p.m. to 4:40 p.m. EST. The comment period may end sooner, if there are no comments presented or they are exhausted before the end time. Any member of the public may submit a 1–2-page commentary for the Committee's review no later than June 30, 2025.

Any member of the public wishing to virtually attend the meeting or seeking

additional information should contact, Julian Wright, Designated Federal Officer, Department of Veterans Affairs, Advisory Committee on Former Prisoners of War at Julian.Wright2@va.gov.

Join On Your Computer or Mobile App: <https://veteransbaffairs.bwebex.com/veteransaffairs/j.php?MTID=m0c9b03a7633be39b2f36cf36b997ed30>.

You can dial 1–404–397–1596 USA Toll Number and enter the access code below.

Access code: 2822 223 0344#

Dated: July 1, 2025.

Jelessa M. Burney,
Federal Advisory Committee Management Officer.

[FR Doc. 2025–12468 Filed 7–2–25; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

Increase in Maximum Tuition and Fee Amounts Payable Under the Post-9/11 GI Bill

AGENCY: Department of Veterans Affairs.
ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the increase in the Post-9/11 GI Bill maximum tuition and fee amounts payable and the increase in the amount used to determine an individual's entitlement charge for reimbursement of a licensing, certification, or national test for the 2025–2026 academic year (AY), effective August 1, 2025, through July 31, 2026.

FOR FURTHER INFORMATION CONTACT: Jamak Clifton, Veterans Benefits Administration, (202) 461–9800.

SUPPLEMENTARY INFORMATION: For AY 2025–2026, the Post-9/11 GI Bill authorizes the Department of Veterans Affairs (VA) to pay the actual net cost of tuition and fees not to exceed the in-

¹ *Criminal regulatory offense* means a Federal regulation that is enforceable by a criminal penalty. E.O. 14294, sec. 3(b).

² *Mens rea* means the state of mind that by law must be proven to convict a particular defendant of a particular crime. E.O. 14294, sec. 3(c).

state amounts for students pursuing a program of education at public institutions of higher learning; \$29,920.95 for students pursuing a program of education at private and foreign institutions of higher learning; \$29,920.95 for students pursuing a program of education at non-degree-granting institutions; \$17,097.67 for students training at vocational flight schools; and \$14,533.00 for students training at correspondence schools. See 38 U.S.C. 3313.

In addition, the entitlement charge for individuals receiving reimbursement of the costs associated with taking a licensing, certification, or national test is pro-rated based on the reimbursed amount of the test fee relative to the rate of \$2,496.26 for 1 month. See 38 U.S.C. 3315(c); 3315A(c). The maximum reimbursable amount for licensing and

certification tests is \$2,000. See 38 U.S.C. 3315(b). There is no maximum reimbursable amount for national tests. Also, the entitlement charge for individuals receiving reimbursement of the costs associated with taking a preparatory course for licensure, certification, or national tests is pro-rated based on the reimbursed amount of the covered preparatory course fee relative to the rate of \$2,428.20 for 1 month. See 38 U.S.C. 3315B. There is no maximum reimbursable amount for covered preparatory courses. Although the statutory language requires VA to charge entitlement based on the “actual amount of the fee charged” for the licensure, certification, or national test or the covered preparatory course, to avoid an inequitable outcome for students, VA’s practice is to charge entitlement based on the actual

reimbursed amount of the test or course fee.

Sections 3313, 3315, 3315A, and 3315B direct VA to increase the maximum tuition and fee payments and entitlement-charge amounts each academic year (beginning on August 1st) based on the most recent percentage increase determined under 38 U.S.C. 3015(h). The most recent percentage increase determined under 38 U.S.C. 3015(h) is 3.4%, which was effective on October 1, 2024.

The maximum tuition and fee payments and entitlement charge amounts for training pursued under the Post-9/11 GI Bill beginning after July 31, 2025, and before August 1, 2026, are listed below. VA’s calculations for AY 2025–2026 are based on the 3.4% increase.

2025–2026 ACADEMIC YEAR	
Type of school	Actual net cost of tuition and fees not to exceed
Post-9/11 GI Bill Maximum Tuition and Fee Amounts	
Public	In-State/Resident Charges.
Private/Foreign	\$29,920.95.
Non-Degree Granting	\$29,920.95.
Vocational Flight	\$17,097.67.
Correspondence	\$14,533.00.
Post-9/11 Entitlement Charge Amount for Tests	
Licensing and Certification Tests	Entitlement will be pro-rated based on the reimbursed amount of the test fee relative to the rate of \$2,496.26 for 1 month. The maximum reimbursable amount for licensing and certification tests is \$2,000.
National Tests	Entitlement will be pro-rated based on the reimbursed amount of the test fee relative to the rate of \$2,496.26 for 1 month. There is no maximum reimbursable amount for national tests.
Preparatory Courses for Licensure, Certification, or National Tests.	Entitlement will be pro-rated based on the reimbursed amount of the covered preparatory course fee relative to the rate of \$2,428.20 for 1 month. There is no maximum reimbursable amount for covered preparatory courses.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved and signed this document on June 30, 2025, and authorized the undersigned to sign and

submit the document to the Office of the Federal Register for publication

electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,
*Alternate Federal Register Liaison Officer,
Department of Veterans Affairs.*
[FR Doc. 2025–12445 Filed 7–2–25; 8:45 am]
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Part II

Department of Agriculture

7 CFR Parts 1b, 372, 520, et al.

36 CFR Part 220

National Environmental Policy Act; Interim Final Rule

DEPARTMENT OF AGRICULTURE**7 CFR Parts 1b, 372, 520, 650, 799, 1970, and 2407****36 CFR Part 220****[USDA–2025–0008]****RIN 0503–AA86****National Environmental Policy Act****AGENCY:** Agriculture (USDA).**ACTION:** Interim final rule; request for public comment.

SUMMARY: This interim final rule modifies the U.S. Department of Agriculture (USDA) regulations implementing the National Environmental Policy Act (NEPA) and removes various USDA agency regulations for implementing NEPA. USDA is taking this action in response to the Council on Environmental Quality's rescission of its NEPA implementing regulations (which USDA's NEPA regulations were designed to supplement), statutory changes to NEPA, executive orders, and case law. Comments are voluntarily requested on this action to inform USDA's decision-making.

DATES: This rule is effective July 3, 2025. Comments concerning this rule must be received by July 30, 2025.

ADDRESSES: Comments, identified by USDA–2025–0008, should be sent via one of the following methods:

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

- *Mail:* USDA, 1400 Independence Ave. SW, Washington, DC 20250–0108.

Comments should be confined to issues pertinent to the interim final rule, explain the reasons for any recommended changes, and reference the specific section and wording being addressed, where possible. All timely comments will be placed in the record and be available for public inspection at <https://www.regulations.gov>, including any personal information provided. Do not submit any information you consider to be private, confidential business information, or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT:

Scott Vandegrift, Chief Environmental Review and Permitting Officer, Office of the Secretary, 202–720–5166, SM.OSEC.NRE.NEPA@usda.gov. Individuals who use telecommunications devices for the hearing-impaired may call 711 to reach the Telecommunications Relay Service,

24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:**I. Background**

On February 25, 2025, CEQ issued an interim final rule rescinding their regulations in response to Executive Order (E.O.) 14154, *Unleashing American Energy*.

CEQ's interim final rule rescinded its NEPA implementing regulations, including 40 CFR parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508. The effective date of CEQ's interim rule was April 11, 2025. The background of CEQ's regulations, recent litigation, and relevant executive orders leading up to their February 25, 2025, interim final rule support the rationale underlying this interim final rule.

The Department of Agriculture (USDA) is issuing this interim final rule to revise, move and republish, or remove portions of USDA's existing regulations for implementing the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321–4347, as amended by the Fiscal Responsibility Act of 2023, as well as add new portions to the USDA NEPA implementing regulations for three independent reasons.

First, CEQ's regulations were repealed effective April 11, 2025; see *Removal of National Environmental Policy Act Implementing Regulations*, 90 FR 10610 (Feb. 25, 2025). USDA and its agencies' regulations were promulgated as a “supplement” that “incorporates and adopts” the CEQ's NEPA regulations, see 7 CFR 1b.1(a). However, the CEQ regulations (40 CFR parts 1500 through 1508) no longer provide a valid foundation for USDA NEPA regulations. Second, Congress recently amended NEPA in significant part, in the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, signed on June 3, 2023, in which Congress added substantial detail and direction in Title I of NEPA regarding procedural issues that CEQ and individual acting agencies had previously addressed in their own procedures. USDA recognized the need to update its regulations considering these significant legislative changes. Since USDA's regulations were originally designed as a supplement to CEQ's NEPA regulations, USDA had been awaiting CEQ action before revising its regulations, consistent with CEQ direction. See 40 CFR 1507.3(b) (2024); see also 86 FR 34154 (June 29, 2021). However, with CEQ's regulations now rescinded, and with USDA's NEPA implementing procedures still unmodified more than two years after this significant legislative overhaul, it is

exigent that USDA move quickly to conform its procedures to the statute as amended. And third, the U.S. Supreme Court recently issued a landmark decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), in which it decried the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” “agency decision-making.” *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency conclusions underlying its NEPA process. *Id.* at 1513–14. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” which, in light of judicial “micromanage[ment],” had been “tak[ing] ever more time and [] prepar[ing] ever longer EISs [environmental impact statements] for future projects.” *Id.* at 1513. USDA incorporated this case's holdings into these procedures, availing itself of the latest information and guidance from the Court for its future NEPA application.

These reasons now prompt USDA to publish this interim final rule to revise, move and republish, or remove portions of the USDA NEPA implementing regulations, as well as add new portions, given the CEQ NEPA regulations no longer provide a foundation for USDA NEPA regulations and leave the Department without necessary interpretation of, and implementing procedures for, NEPA. NEPA is a vital part of Federal agency planning and decision-making, and USDA agencies need clear standards and guidelines as soon as possible to conduct the work of providing critical services and funds to Americans, as directed by Congress. Conducting a standard rulemaking process would impede USDA's planning and decision-making for longer than necessary and would be impracticable and contrary to the public interest. For these reasons, USDA is using the interim final rule process. (Also see discussion under Section III. for additional rationale for using the interim rule process.)

National Environmental Policy Act

Congress enacted NEPA to declare a national policy “to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote

the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and [to] fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. 4331(a).

As amended by the Fiscal Responsibility Act of 2023, Public Law 118–5, NEPA furthers this national policy by requiring Federal agencies to prepare a “detailed statement” for proposed “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. 4332(2)(C). This statement must address: (1) the reasonably foreseeable environmental impacts of the proposed agency action; (2) the reasonably foreseeable adverse environmental impacts that cannot be avoided; (3) a reasonable range of alternatives to the proposed agency action that are technically and economically feasible and meet the purpose and need of the proposal, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative; (4) the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of resources that would be involved in the proposed action (or action alternatives). 42 U.S.C. 4332(2)(C).

NEPA further mandates that Federal agencies ensure the professional and scientific integrity of environmental documents; use reliable data and resources when carrying out NEPA; and study, develop, and describe technically and economically feasible alternatives. 42 U.S.C. 4332(2)(D)–(F). NEPA provides procedures for making threshold determinations about whether an environmental document must be prepared and, if so, which type of environmental document. 42 U.S.C. 4336(a)–(b).

NEPA identifies three levels of review—categorical exclusion, environmental assessment, and environmental impact statement. NEPA § 107, 42 U.S.C. 4336a. A categorical exclusion is a “a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of [NEPA] section 102(2)(C).” NEPA § 111(1), 42 U.S.C. 4336e(1). An environmental assessment is a “concise” document “set[ting] forth the basis of [an] agency’s finding of no significant impact or determination that an environmental impact statement is necessary,” prepared in connection with

a proposed agency action that does not have a significant impact or the significance of whose impact is unknown. NEPA § 106(b)(2), 42 U.S.C. 4336(b)(2). An environmental impact statement is a detailed statement analyzing a proposed agency action with reasonably foreseeable significant impacts, governed by the provisions of NEPA §§ 102(2)(C), 106(b)(1); 42 U.S.C. 4332(2)(C), 4336(b)(1).

NEPA does not mandate particular results or substantive outcomes. *Seven County*, 145 S. Ct., at 1510. Rather, NEPA requires Federal agencies to consider the environmental effects of proposed actions as part of Federal agency decision-making processes. As amended by the Fiscal Responsibility Act, NEPA provides additional requirements to facilitate timely and unified Federal reviews, including provisions clarifying lead, joint lead, and cooperating agency designations, generally requiring the development of a single environmental document, directing agencies to develop procedures for proposal sponsors to prepare environmental assessments and environmental impact statements, and prescribing page limits and deadlines. NEPA § 107, 42 U.S.C. 4336a. NEPA also sets forth the circumstances under which agencies may rely on programmatic environmental documents, NEPA § 108, 42 U.S.C. 4663b, and adopt and use another agency’s categorical exclusions, NEPA § 109, 42 U.S.C. 4336c.

II. Basis for Consolidating and Revising USDA’s NEPA Regulations

A. USDA NEPA Regulations

In 1974, the Secretary of Agriculture issued Memorandum No. 1695, Supplement 4 (Revised), to establish guidelines for the preparation of environmental impact statements and compliance with other procedural requirements of § 102(2) of the National Environmental Policy Act (NEPA). On May 1, 1979 (44 FR 25606) and July 30, 1979 (44 FR 44802), the Department of Agriculture (USDA) proposed and finalized rules setting forth policies and procedures for compliance with NEPA and the Council on Environmental Quality’s (CEQ) implementing regulations (40 CFR parts 1500 through 1508). On occasion, the Department has further amended its NEPA regulations to refine and adjust to better meet its organizational and program needs. See 44 FR 44802, 46 FR 47747, 48 FR 11403, 60 FR 66481, 76 FR 4802.

USDA promulgated its current regulations in 1995 (60 FR 66481, Dec. 22, 1995), to “[supplement] the

regulations for the implementation of the National Environmental Policy Act (NEPA), for which regulations were published by the CEQ in 40 CFR parts 1500 through 1508 [and incorporate and adopt] those regulations.” Subtitle A, part 1b.1 of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 1b).

USDA NEPA regulations were dependent upon provisions in the 1978 CEQ regulations. Similarly, individual USDA agency NEPA regulations expressly state that their “purpose” is to supplement and implement CEQ regulations:

(1) Agricultural Research Service, subtitle B, chapter V, part 520, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 520): “These procedures incorporate and supplement, and are not a substitute for, CEQ regulations under 40 CFR parts 1500–1508, and Department of Agriculture NEPA Policies and Procedures under 7 CFR part 1b.” (7 CFR 520.1);

(2) Animal Plant Health and Inspection Service, subtitle B, chapter III, part 372, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 372): “These procedures implement section 102(2) of the National Environmental Policy Act (NEPA) by assuring early and adequate consideration of environmental factors in Animal and Plant Health Inspection Service planning and decision-making and by promoting the effective, efficient integration of all relevant environmental requirements under NEPA. The goal of timely, relevant environmental analysis will be secured principally by adhering to NEPA implementing regulations (40 CFR parts 1500–1508), especially provisions pertaining to timing (§ 1502.5), integration (§ 1502.25), and scope of analysis (§ 1508.25).” (7 CFR 372.1);

(3) Farm Service Agency, subtitle B, chapter VII, subchapter G, part 799, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 799): “This part: . . . (2) Establishes FSA procedures to implement the (i) National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 through 4370); (ii) CEQ regulations (40 CFR parts 1500 through 1518); and (iii) USDA NEPA regulations (§§ 1b.1 through 1b.4 of this title).” (7 CFR 799.1);

(4) National Institute of Food and Agriculture, subtitle B, chapter XXXIV, part 3407, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 3407): “The purpose of this regulation is to supplement the regulations for implementation of NEPA established by the CEQ and codified at 40 CFR parts

1500–1508, as adopted by USDA in 7 CFR part 1b.” (7 CFR 3407.1);

(5) Natural Resources Conservation Service, subtitle B, chapter VI, subchapter F, part 650, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 650): “The procedures included in this rule supplement CEQ’s NEPA regulations, 40 CFR parts 1500–1508. CEQ regulations that need no additional elaboration to address NRCS-assisted actions are not repeated in this rule, although the regulations are cited as references. The procedures include some overlap with CEQ regulations. This is done to highlight items of importance for NRCS. This does not supersede the existing body of NEPA regulations.” (7 CFR 650.1);

(6) Rural Development, subtitle B, chapter XVIII, subchapter H, part 1970, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 1970): “This part also supplements the CEQ regulations implementing the procedural provisions of NEPA, 40 CFR parts 1500 through 1508. To the extent appropriate, the agency will take into account CEQ guidance and memoranda.” (7 CFR 1970.1); and

(7) U.S. Forest Service, chapter II, part 220, of title 36 of the Code of Federal Regulations (hereinafter 36 CFR 220): “This part establishes Forest Service, U.S. Department of Agriculture (USDA) procedures for compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347) and the CEQ regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500 through 1508) . . . This part supplements and does not lessen the applicability of the CEQ regulations and is to be used in conjunction with the CEQ regulations and USDA regulations at 7 CFR part 1b.” (36 CFR 220.1).

Departmental and agency NEPA regulations have been largely organizational and technical, with limited substantive content. The Department’s past judgment has been that effective NEPA implementation could be achieved by reliance on a policy statement in 7 CFR 1b.2 and individual USDA agency NEPA regulations for tailored technical procedures. For the reasons described above, the Department now believes that a change is necessary to advance the Department’s mission in an efficient, flexible, and innovative manner while ensuring the conservation and protection of the environment.

USDA has analyzed how best to respond to the CEQ’s interim final rule and fulfill NEPA’s statutory requirements while allowing for efficient program implementation. In

the Department’s judgment, given that NEPA is a procedural statute that simply directs consideration of reasonably foreseeable environmental impacts, it is sufficient for the Department to issue a set of uniform procedures, and it is not necessary for each agency with NEPA responsibilities across the Department to supplement the Department NEPA regulations. Therefore, USDA is proposing to correct course and right-size its NEPA regulations consistent with applicable law.

B. USDA Agency-Specific NEPA Regulation Summaries

1. Statement of Purpose

USDA’s new NEPA implementing procedures, as adopted via this interim final rule, are a more faithful implementation of the statute as amended in 2023 than its old procedures. These procedures implement major structural features of the 2023 amendments, such as deadlines and page limits for environmental assessments and environmental impact statements, as directed at NEPA § 107(g), 42 U.S.C. 4336(g), and provide that USDA will complete preparation of these documents within the maximum length and on the timeline that Congress intends. They incorporate Congress’s definition of “major Federal action” and the exclusions thereto, as codified at NEPA § 111(10), 42 U.S.C. 4336e(10). They incorporate Congress’s mandated procedure for determining the appropriate level of review under NEPA, as codified in NEPA § 106, 42 U.S.C. 4336. They incorporate Congress’s direction with respect to establishment, adoption, and application of categorical exclusions, as codified at NEPA § 111(10), 42 U.S.C. 4336e(10). They provide procedures governing project-sponsor-prepared environmental assessments and environmental impact statements, as directed at NEPA § 107(f), 42 U.S.C. 4336a(f). And they incorporate Congress’s revision to the requirements for what an agency must address in its environmental impact statements, as codified at NEPA § 102(2)(C), 42 U.S.C. 4332(2)(C), and Congress’s requirement that public notice and solicitation of comment be provided when issuing a notice of intent to prepare an environmental impact statement, as directed at NEPA § 107(c), 42 U.S.C. 4336a(c). All of these are crucial features of Congress’s policy design and its purpose in the 2023 amendments that NEPA review be more efficient and certain.

Moreover, all of these respond to the President’s directive in E.O. 14154; and all of these reflect the Supreme Court’s recent and unequivocal statement that NEPA is a purely procedural statute. The Department is conscious of the Supreme Court’s admonition that NEPA review has grown out of all proportion to its origins of a “modest procedural requirement,” creating, “‘under the guise’ of just a little more process,” “[d]elay upon delay, so much so that the process seems to ‘borde[r] on the Kafkaesque.’” *Seven County*, 145 S. Ct. at 1513–1514. These procedures, therefore, are intended to align NEPA with its Congressionally mandated dimensions, reflecting the guidance given also by the President and the Supreme Court, and making review under it faster, more flexible, and more efficient.

In reaching this decision, USDA acknowledges that third parties may claim to have reliance interests in USDA’s existing NEPA procedures. But revised agency procedures will have no effect on ongoing NEPA reviews, where USDA, following CEQ guidance, has held it will continue to apply existing applications. Moreover, as the Supreme Court has just explained, NEPA “is a purely procedural statute” that “imposes no substantive environmental obligations or restrictions.” *Seven County*, 145 S. Ct. at 1507. Any asserted reliance interests grounded in substantive environmental concerns are not in accord with the best meaning of the law and are entitled to “no . . . weight.” *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 891, 1914 (2020).

Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in *prospective* procedures. To the extent such interests exist, the Department holds that they are “outweigh[ed]” by “other interests and policy concerns.” *Id.* Namely, the complex web of regulations that preexisted the 2023 amendments to NEPA and the new Procedures repeatedly “led to more agency analysis of separate projects, more consideration of attenuated effects, more exploration of alternatives to proposed agency action, more speculation and consultation and estimation and litigation,” which in turn has meant that “[f]ewer projects make it to the finish line,” or even “to the starting line.” *Seven County*, 145 S. Ct. at 1513–14. This has increased the cost of projects dramatically, “both for the agency preparing the EIS and for the builder of the project,” resulting in systemic harms to America’s infrastructure and

economy. *Id.* Correspondingly, the wholesale revision and simplification of this regime, effectuated by these procedures, is necessary to ensure efficient and predictable reviews, with significant upsides for the economy and for projects of all sorts. This set of policy considerations drastically outweighs any claimed reliance interests in the preexisting procedures.

USDA has revised its NEPA implementing regulations to conform to the 2023 statutory amendments, to respond to President Trump's direction in E.O. 14154 to, "[c]onsistent with applicable law, prioritize efficiency and certainty over any other objectives, including those of activist groups, that do not align with the policy goals set forth in section 2 of [that] order or that could otherwise add delays and ambiguity to the permitting process," and to address the pathologies of the NEPA process and NEPA litigation as identified by the Supreme Court. Where USDA has retained an aspect of its preexisting NEPA implementing procedures, it is because that aspect is compatible with these guiding principles; where USDA has revised or removed an aspect, it is because that aspect is not so compatible.

2. General Overview of Changes

USDA is modifying the department-level NEPA regulations found at 7 CFR 1b to provide a valid foundation from which USDA mission areas, agencies, and staff offices (or subcomponents) implement NEPA. 7 CFR 1b would primarily retain and move the placement of the following information currently contained in 7 CFR 1b and the individual agency NEPA regulations below: categorical exclusions, which includes a list of USDA agencies and offices excluded from completing an environmental assessment or environmental impact statement; and emergency action provisions. Some additional sections from agency-specific regulations are also retained, as described in the agency-specific regulation discussions listed below. Except for the information to be moved to the revised 7 CFR 1b regulation, the following individual agency NEPA regulations will be rescinded in full:

- Agricultural Research Service: 7 CFR 520;
- Animal and Plant Health Inspection Service: 7 CFR 372;
- Farm Service Agency: 7 CFR 799;
- National Institute of Food and Agriculture: 7 CFR 3407;
- Natural Resources Conservation Service: 7 CFR 650;
- Rural Development: 7 CFR 1970; and
- U.S. Forest Service: 36 CFR 220.

The following summaries capture additional specific changes that are occurring for each affected USDA regulation. For all regulations, references to CEQ's rescinded NEPA implementing regulations (40 CFR parts 1500 through 1508) were removed. Where USDA agency NEPA regulations cited portions of the agency regulation that are now being rescinded, those references were also removed and revised to refer to the applicable section in the revised 7 CFR 1b regulation. Where USDA agency NEPA regulations used agency-developed terms, such as those associated with agency-developed forms and other document types, these have been generalized to allow for the application of consistent Department implementing procedures for NEPA. As discussed previously, USDA agencies will be able to issue agency-specific procedures through technical and program guidance that aligns with NEPA and the Department regulations at 7 CFR 1b.

3. USDA Departmental NEPA Regulations (7 CFR 1b)

USDA is revising the department-level NEPA regulations at 7 CFR 1b to provide necessary guidance and direction for implementing NEPA in the absence of the CEQ NEPA implementing regulations, as rescinded effective April 11, 2025.

With the CEQ NEPA implementing regulations having been rescinded, USDA identified opportunities to reduce redundant and duplicative regulation revision efforts for agency-specific NEPA regulations and instead establish necessary direction at the department-level. This allows the Department to establish consistency across the subcomponents, where desired, in how NEPA is implemented.

The following provides a summary of what is included or being revised in each section of the department-level NEPA regulations, as well as the rationale for the changes.

7 CFR 1b.1—Purpose: Previous paragraphs (a) and (b) in this section are removed. Paragraphs (a) through (d) are added and this section is now revised to read as indicated in 7 CFR 1b.1.

In this section, USDA removes reference to CEQ NEPA regulations at 40 CFR parts 1500 through 1508 and adds clarification of the purpose of the revised departmental NEPA regulations. This section specifies the mission areas, agencies, and staff offices (hereinafter USDA subcomponents or subcomponent) the part applies to.

7 CFR 1b.2—Policy: Previous paragraphs (a), (b), (c), and (d) in this section are removed. Paragraphs (a)

through (i) are added and this section is now revised to read as indicated in 7 CFR 1b.2. In this section, USDA outlines the Department's policy on complying with NEPA and specifies roles and responsibilities at the Department for managing NEPA compliance. The Under Secretary of Natural Resources and Environment continues to hold responsibility for ensuring overall Department compliance with NEPA. This section provides clarification on the issuance of agency-specific NEPA guidance for processes and practices that address agency-specific laws and program efficiency.

USDA adds requirements to this section to submit to Congress on an annual basis a report that identifies any environmental assessment and environmental impact statement that such lead agency did not complete by the deadline described in NEPA § 107(g), 42 U.S.C. 4336a(g), as amended in 2023, and provide an explanation for failure to meet deadlines. Specifies USDA roles and responsibilities for completing this report.

This section adds the process for how USDA subcomponents will determine when NEPA does not apply. Consideration of whether the action is a major Federal action is added, as the definition of major Federal action was added to NEPA, as amended by the Fiscal Responsibility Act of 2023. NEPA does not apply to "non-Federal actions"; therefore, under the terms of the statute, NEPA does not apply to actions with no or minimal Federal funding, or with no or minimal Federal involvement where a Federal agency cannot control the outcome of the proposal. A but-for causal relationship is insufficient to make an agency responsible for a particular action under NEPA. See *Dept. of Transp. v. Pub. Citizen*, 541 U.S. 752, 767 (2004). By the same token, minimal Federal funding or involvement, which may in a causal sense be a but-for cause of an action, does not by itself convert that action into a Federal action within the meaning of the language of the statute.

This section adds the process for how USDA subcomponents will determine the level of NEPA that applies. Where some agency-specific NEPA regulations identified categories of actions generally requiring an environmental assessment or environmental impact statement, these sections have not been carried forward into 7 CFR 1b. NEPA does not require the identification of categories of actions other than those actions that are categorically excluded from documentation in an environmental assessment or environmental impact statement when a Federal agency has

determined the actions normally do not significantly affect the quality of the human environment within the meaning of NEPA § 102(2)(C), 42 U.S.C. 4332(2)(C), NEPA § 111(1), 42 U.S.C. 4336e(1)). Because the determination of no significance was made during the process of establishing the categorical exclusion, it is the consideration of whether an extraordinary circumstance exists that may preclude the use of the category (see 7 CFR 1b.3(f)). In determining whether a categorical exclusion applies to a proposed action, and therefore does not require preparation of an environmental assessment or environmental impact statement, an agency should evaluate the action for extraordinary circumstances that indicate a normally excluded action is likely to have reasonably foreseeable significant adverse effect. Determinations of whether to prepare an environmental assessment or environmental impact statement should be based on the anticipated degree of effect, in accordance with NEPA, not on the type of action. An environmental assessment shall be prepared when a Federal agency finds that a categorical exclusion does not apply to an action and the action does not have a reasonably foreseeable significant impact on the quality of the human environment, or the significance of such effect is unknown (NEPA § 106(b)(2) (42 U.S.C. 4336(b)(2)); 7 CFR 1b.2(f)(iv)(A)) and 1b.5(a)). An environmental impact statement shall be issued when a Federal agency finds that a categorical exclusion does not apply and determines an action has a reasonably foreseeable significant impact on the quality of the human environment (NEPA § 106(b)(1) 42 U.S.C. 4336(b)(1); 7 CFR 1b.2(f)(iv)(B) and 1b.7(a)). This policy accurately reflects the statutory requirements of NEPA for determining the appropriate level of NEPA review (categorical exclusion, environmental assessment, or environmental impact statement).

This section also includes the new considerations for whether the effects of the proposed action (or alternatives) are significant (7 CFR 1b.2(f)(3)). When defining considerations for significance, USDA is using the concept of “affected environment” and a list of types of effects that include both short- and long-term effects, both beneficial and adverse effects, effects on public health and safety, economic effects, and effects on the quality of life of the American people.

With regards to the rationale the responsible official provides as to whether the degree of effect is

significant, USDA is aligning considerations of significance with the statutory items that must be disclosed in an environmental impact statement, per NEPA § 102(2)(C)(i–v) (42 U.S.C. 4332), such as disclosure of reasonably foreseeable environmental impacts (as both short- and long-term effects), consequences of not implementing the action, irreversible or irretrievable commitment of Federal resources, and long-term productivity of the human environment. Instead of leaving the list of types of effects as disparate disclosures, USDA finds it logical to bring these together when it comes to considerations for significance. The terms “compares to” and “contributes to,” as included in the considerations for significance, provide the necessary precision or focus for conducting the analysis of the effects and considering how the potential impacts compare to the consequences, especially as it relates to effects on public health and safety, economics, and the quality of life of the American people, as well as identifying irreversible and irretrievable commitments and how these contribute to loss of long-term productivity for the human environment. Outlining the significance considerations in this manner allows those conducting effects analysis to better focus on the issues to be analyzed in detail for reasonably foreseeable significant impacts and allows the responsible official to better communicate their rationale for deciding how to proceed and why.

Specifies that as part of USDA subcomponent decision-making, NEPA should be integrated with other environmental analyses to demonstrate compliance with other laws. Also adds limitations on actions taken during the NEPA process.

7 CFR 1b.3—Categorical Exclusions and Findings of Applicability and No Extraordinary Circumstance: Revises the title of this section from “Categorical Exclusions” to “Categorical Exclusions and Findings of Applicability and No Extraordinary Circumstance”.

Department-level categorical exclusions previously included in paragraph (a) of this section are moved to § 1b.4, with revisions occurring to these as described in the discussion of changes for § 1b.4. Previous paragraphs (b) and (c) in this section are removed. Paragraphs (a) through (j) are added and this section is now revised to read as indicated in 7 CFR 1b.3.

Adds procedures for establishing, revising, adopting, removing, and applying categorical exclusions, as well as relying on other agency categorical exclusion determinations.

Adds clarification that USDA subcomponents may use any of the categorical exclusions listed at 7 CFR 1b.4, as well as use non-USDA categories that were adopted by any other USDA subcomponent. The USDA NEPA regulations have always included Department-wide CEs (now moved to § 1b.4). See 48 FR 11403 (March 18, 1983) and 60 FR 66481 (Dec. 22, 1995). Given the issuance of one set of departmental NEPA regulations to provide consistency for all USDA subcomponents implementing NEPA, the rescission of agency-specific NEPA regulations, and the overlap of similar programs and activities across USDA mission areas and agencies, the Department finds it is appropriate for USDA subcomponents to apply the same categorical exclusions where it makes sense to do so for the actions proposed by the subcomponent.

Adds procedures for considering extraordinary circumstances, explanation of what constitutes an extraordinary circumstance, and clarification for how the subcomponent should proceed based on the determination of whether there are extraordinary circumstances. Clarifies an extraordinary circumstance means a unique situation exists in which actions that normally do not have significant impacts and are therefore categorically excluded from documentation in an environmental assessment or environmental impact statement, create uncertainty whether the degree of the impact is significant for the relevant resources considered (7 CFR 1b.11(a)(17)). Previously, some agencies had mandated lists of resources to consider for extraordinary circumstances while other agencies had no list. Adds a list of resources (based on the previously existing lists in some USDA agency-specific NEPA regulations) a responsible official may consider for extraordinary circumstances but does not mandate any of these must be considered. Considerations for extraordinary circumstances will be made at the responsible official’s sole discretion and determined on a case-by-case basis, considering the nature of the proposed action and the potentially affected environment. Adds clarification on what constitutes the existence of an extraordinary circumstance and specifies that effects analysis completed to demonstrate compliance with other applicable laws also can be relied on to determine no extraordinary circumstance exists.

Adds the concept of a finding of applicability and no extraordinary circumstance (FANEC), which applies

to all categorical exclusions. For those categories requiring NEPA documentation, specifies that these determinations must be documented to demonstrate the appropriate use of the category, adequate consideration of extraordinary circumstances, and a determination that no extraordinary circumstance exists. Gives agencies flexibility on how to document these determinations so long as certain items are addressed. Clarifies documentation considerations for other applicable environmental laws and regulations and timing of action.

7 CFR 1b.4—Categorical Exclusion of USDA Subcomponents and Actions: Revises the title of this section from “Exclusion of Agencies” to “Categorical Exclusion of USDA Subcomponents and Actions”. Previous paragraphs (a) and (b) are combined into one paragraph, now paragraph (a), which is revised to read as indicated in 7 CFR 1b.4. This section is revised to read as indicated in 7 CFR 1b.4. Paragraphs (b), (c), and (d) are added to this section.

Paragraphs (a) include the list of USDA subcomponents generally excluded from preparing an environmental assessment or environmental impact statement and adds general offices of the Department to this list.

The department-level categorical exclusions previously listed in § 1b.3 have been moved to paragraph (c) in this section. Examples of actions that fit the category were added to some of the department-wide categories, as further described under the agency-specific regulation changes discussed below. Some agencies had categorical exclusions that were duplicative of the department-wide categories or served as examples of those categories; therefore, these were removed as separate categories and added as examples of the department-wide categories where applicable.

Categorical exclusions previously codified in USDA agency-specific NEPA regulations are now consolidated under paragraphs (c) and (d) in this section. Any changes to the categorical exclusion language, as previously documented in agency-specific NEPA regulations, are discussed under the applicable agency-specific justification sections below. Other than these few modifications to categories, the majority of categories remain unchanged as originally promulgated and are simply moved from one section of USDA’s regulations to another. Categories are organized by those that do or do not require NEPA documentation. New numbering was assigned to each categorical exclusion to make it easier to

reference categories across the Department as any USDA subcomponent may utilize the categorical exclusions listed in 7 CFR 1b. Numbering includes acronyms at the end indicating the agency that initially established the category to help agency personnel more readily locate the categories they are likely to continue using frequently.

7 CFR 1b.5—Environmental Assessments: This section is added to read as indicated in 7 CFR 1b.5.

Adds procedures for issuing environmental assessments. Reinforces the role of an environmental assessment (EA). Gives agencies flexibility on how to format the EA so long as certain items are addressed. Provides clarification on requirements for analysis of alternatives for an EA and reiterates the importance of deadline and page limit requirements from NEPA, as amended in 2023. Consideration of taking no action shall be included as part of the environmental impacts analysis to contrast the potential impacts of the proposed action, and any alternative(s) if developed, with the current condition and expected future condition if the proposed action or alternative were not implemented (7 CFR 1b.5(c)(2)(i)). This is necessary to inform aspects of the consideration of significance, as specified in 7 CFR 1b.2(f)(3).

States that subcomponents are to adhere to the statutory deadlines and publish an EA “in as substantially complete form as is possible.” Requires responsible officials to certify that they made a good faith effort to satisfy the requirements in the statute. Clarifies when seeking an extension to the deadline is appropriate. These new additions provide the Department’s policy on how it will apply the new statutory deadlines in 42 U.S.C. 4336a(g) and page limits in 42 U.S.C. 4336a(e). This policy is based on the rationale that NEPA is governed by a “rule of reason.” *Dept. of Transp. v. Pub. Citizen*, 541 U.S. 752 (2004). In establishing deadlines for the environmental assessment process in the 2023 revision of NEPA, Congress supplied the measure of that reason in NEPA § 107(g), 42 U.S.C. 4336a(g). “Time and resources are simply too limited for us to believe that Congress intended” consideration under NEPA to extend indefinitely. *Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 776 (1983) (citing *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 551 (1978)). Clarifies when it may be appropriate to publish a notice of intent to prepare an EA. Provides direction on making the EA available to the public.

7 CFR 1b.6—Finding of No Significant Impact: This section is added to read as indicated in 7 CFR 1b.6.

Adds procedures for issuing findings of no significant impact. Reinforces the role of a finding of no significant impact (FONSI). Gives agencies flexibility on how to format the FONSI so long as certain items are addressed. Provides direction on making the FONSI available to the public, providing notifications, and timing of the action.

7 CFR 1b.7—Environmental impact statements: This section is added to read as indicated in 7 CFR 1b.7.

Adds procedures for issuing environmental impact statements.

Reinforces the role of an environmental impact statement (EIS). Provides direction on lead agency responsibilities for publication of the notice of intent, and scoping if conducted, including how to address delays, pauses, or withdrawals regarding intent to prepare an EIS.

Adds clarity on the process for requesting comments during preparation of an EIS to align with statutory requirements in NEPA (§ 102(2)(C), 42 U.S.C. 4332(2)(C); (NEPA § 107(c), 42 U.S.C. 4336a(2)(C)).

Specifies that a request for comment may be undertaken at any time that is reasonable in the process of preparing an EIS, as the publication of a draft EIS is no longer required. NEPA (the Act itself) does not require publication of a draft EIS, and filing a draft EIS with the Environmental Protection Agency and publishing the notice of availability in the **Federal Register** adds time and unnecessary process. Responsible officials still have the discretion to publish a draft EIS on a USDA website, along with any other pre-decisional materials that, in their judgment, may assist in fulfilling their responsibilities under NEPA and in facilitating the request for comments.

Reiterates that USDA subcomponents must ensure the process of obtaining and addressing comments and the publication of draft or pre-decisional materials must not cause the subcomponent to violate the Congressionally mandated deadline for completion of an EIS. Specifies that subcomponents shall consider comments and should address comments raising substantive issues or recommendations. Focuses the subcomponent on addressing comments by capturing the action the responsible official took in response to the issue raised or recommendation made. Recommends documentation of how comments were addressed should be included as an appendix in the EIS.

Requires electronic publication of substantive comments and provides an alternative course of action if USDA subcomponents do not have the capability or capacity to electronically publish comments.

Specifies that USDA subcomponents shall consider substantive comments but leaves discretion for addressing substantive comments in writing. There is no requirement in NEPA to address comments in writing; however, documentation of how comments were considered is highly encouraged to demonstrate the rationale for how the responsible official decides to proceed during the iterative development of the proposed action and action alternatives and the iterative analysis process. This documentation of how the responsible official proceeded and why is advantageous to demonstrating that decisions made during the iterative NEPA process are not arbitrary or capricious; however, experience implementing the previous CEQ NEPA regulation requirement for responding to comments has demonstrated this process led to burdensome and time-consuming efforts that routinely prevented USDA subcomponents from meeting the 2-year deadline for completing an EIS, which is now mandated in NEPA § 107(g)(1)(A), 42 U.S.C. 4336a(g)(1)(A). Additionally, the approach to “response to comments” that has been employed by some USDA subcomponents was not always the most effective in that it did not focus on demonstrating the action the responsible official took in response to the substantive issue raised and/or recommendation made. In some cases, the “response to comments” documentation generated levels of paperwork that exceeded the page count of the environmental document itself, defying one of the key principles of NEPA to generate “better decisions, not better documents”. For this reason, this section also clarifies that if documentation is completed to demonstrate how comments were considered and addressed, the documentation should focus on capturing the actions taken, as specified at 7 CFR 1b.7(f)(2), to facilitate a more efficient and effective approach to demonstrating how the responsible official responded to the substantive issue raised and/or recommendation made to improve the decision made on how to proceed (for example, issues to be analyzed in detail, alternatives to be considered or analyzed, or the alternative selected for implementation).

Gives subcomponents flexibility on how to format the EIS so long as certain items are addressed. Eliminates some

aspects of EIS formatting previously required in the CEQ NEPA Implementing Regulations, such as the summary, table of contents, list of preparers, and index. These sections also add additional time and process that do not meaningfully inform decision-making and were more relevant when documents were primarily issued in hard copy instead of electronically.

Reiterates deadline and page limit requirements from NEPA, as amended in 2023. Specifies the requirement to file the EIS with the Environmental Protection Agency is still the primary means for making the completed EIS available to the public, in addition to publishing the EIS on a USDA website. States that agency officials are to adhere to the statutory deadlines and publish an EIS “in as substantially complete form as is possible” and requires responsible officials to certify that they made a good faith effort to satisfy the requirements in the statute. Clarifies when seeking an extension to the deadline is appropriate. These new additions provide the Department’s policy on how it will apply the new statutory deadlines in NEPA § 107(g), 42 U.S.C. 4336a(g) and page limits in NEPA § 107(e), 42 U.S.C. 4336a(e). This policy is based on the rationale that NEPA is governed by a “rule of reason.” *Dept. of Transp. v. Pub. Citizen*, 541 U.S. 752 (2004). In establishing deadlines for the environmental impact statement process in the 2023 revision of NEPA, Congress supplied the measure of that reason in NEPA § 107(g), 42 U.S.C. 4336a(g). “Time and resources are simply too limited for us to believe that Congress intended” consideration under NEPA to extend indefinitely. *Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 776 (1983) (citing *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 551 (1978)).

7 CFR 1b.8—Records of decision: This section is added to read as indicated in 7 CFR 1b.8.

Adds procedures for issuing records of decision. Gives subcomponents flexibility on how to format the record of decision (ROD) so long as certain items are addressed. Specifies requirements to make the ROD available to the public and provide notification to certain parties.

Clarifies timing of action. Notwithstanding other statutory or regulatory requirements, there is no longer a requirement to delay implementation of the action once the Environmental Protection Agency has published the notice of availability for the EIS, the ROD has been made

available to the public, and necessary notifications are provided.

7 CFR 1b.9—Efficient and effective environmental reviews: This section is added to read as indicated in 7 CFR 1b.9.

Adds best practices for efficient and effective environmental reviews.

Provides best practices for managing the proposal record. Includes recommendations for assembling and managing documentation developed during the environmental review process, responding to Freedom of Information Act requests, managing potential withholdings and privileges, and managing classified information.

Outlines best practices for reducing paperwork. For clarity, USDA has revised its usage of the terms “tiering” and “adopting,” which were described in the now rescinded CEQ NEPA Implementing Regulations. The term “rely” or “relying” is used (instead of adopting) as this is the term used in NEPA when referring to programmatic documents (NEPA § 108; 42 U.S.C. 4336b) and expands the original concept of “adopting” (now relying) to include not only whole environmental documents but also portions thereof, to include supporting analysis that may not be included in an environmental, finding, or decision document in whole. To avoid confusion with NEPA § 109, the term “adopting” is only used in reference to adopting another Federal agency’s categorical exclusions (the subject of NEPA § 109) and is no longer used in the context of adopting analyses. Additional clarification is provided regarding reliance on programmatic documents, to align with language added to NEPA, as amended in 2023. The terms “incorporating” or “incorporating by reference” continue to apply and are included in the regulations.

Outlines best practices for reducing delay.

Emphasizes the importance of interdisciplinary preparation, methodology, scientific accuracy, and disclosing information availability.

Public involvement discussions are reduced to the most pertinent points that encourage USDA subcomponents to consider the most effective ways of engaging and informing the public, while allowing necessary discretion on the methods to use given the nature of the proposal and the public entities most likely to be interested or affected.

Emphasizes the need to eliminate duplication with State, Tribal, and local procedures, outlines process for identifying lead, joint, and cooperating agencies, promotes timely and unified Federal reviews, and provides process

for resolving disagreements concerning major Federal actions.

Adds additional clarification on how USDA agencies should proceed with unified documentation, as required by NEPA, where another Federal agency is the lead agency. Specifies the agency official at USDA who will determine when a disagreement needs to be elevated to CEQ when there are interagency disagreements concerning the designation of a lead or joint agency or disagreements over proposed major Federal actions that might cause unsatisfactory environmental effects.

Outlines recommended approaches for preparing environmental assessments and environmental impact statements for programmatic actions and provides direction for relying on and reevaluating programmatic (and non-programmatic) documents.

Outlines approaches for evaluating proposals for rules, regulations, and legislation.

Specifies need to apply unique identification numbers to environmental assessments and environmental impact statements.

Adds direction on how to proceed for emergencies, with a distinction provided between “immediate actions” and “urgent but not immediate actions”. Some emergency authorization or emergency procedure language previously included in agency-specific NEPA regulations has been moved to this section in 7 CFR 1b, with much of the language being revised, as described in the agency-specific regulation changes included below. Where language and procedures were essentially the same across agencies, these procedures are now discussed only once. Where procedures differed necessarily across agencies, these different procedures are included. Specifics as to some wording changes that were made for agency-specific procedures are discussed under the applicable agency-specific regulation, listed below. Adds a general emergency action provision for agencies that did not have such provisions in their regulations to coordinate on issuing alternative arrangements for complying with NEPA when completing a categorical exclusion or environmental assessment when significant effects are not anticipated.

7 CFR 1b.10—Documents prepared by applicant or third party: This section is added to read as indicated in 7 CFR 1b.10.

Adds procedures for environmental assessments and environmental impact statements prepared by an applicant or third party. Specifies responsibilities of USDA subcomponents when

documentation is being prepared by an applicant or third party. Recognizes that NEPA § 107(f), 42 U.S.C. 4336a(f), allows an applicant or other third party (e.g., contractor) to complete an environmental assessment or environmental impact statement in whole or in part, under supervision of a Federal agency. For purposes of the USDA NEPA regulations, applicant or other third-party preparation is expanded to include, in whole or in part, documentation for a finding of applicability and no extraordinary circumstance for categorical exclusions requiring NEPA documentation. This is to account for the various ways USDA subcomponents currently work with applicants and third parties to complete documentation associated with a proposal, which includes more than just the preparation of environmental assessments and environmental impact statements. Applicants often complete documentation for actions that fit categorical exclusions requiring NEPA documentation.

7 CFR 1b.11—Definitions and Acronyms: This section is added to read as indicated in 7 CFR 1b.11.

Adds cross-references to key definitions from NEPA and carries over some definitions from the 2020 CEQ NEPA Implementation Regulations, with modifications made for some definitions such as: mitigation (or mitigation measure) and significance.

“Mitigation” (7 CFR 1b.11(a)(29)) was edited to clarify mitigations are determined by the responsible official and are a reactive response to the effects analysis and are documented in the finding of no significant impact or record of decision. See further discussion below on adding the term “design criteria” to the definition section.

“Significance” (7 CFR 1b.11(a)(50)) is defined as explained under the changes made to section 7 CFR 1b.2.

Adds definitions for new terms introduced in the regulations, such as: design criteria (or design elements or design features), emergency, environmental review, extraordinary circumstances, finding of applicability and no extraordinary circumstance, issue, level of NEPA, NEPA process, notice of availability, proposal record, proposed action, purpose and need, scale, scope, senior agency official, and substantive.

The definition for “design criteria” (7 CFR 1b.11(a)(11)) is added to demonstrate that when these criteria are added to proposed actions or alternatives to achieve similar outcomes of “mitigations” (7 CFR 1b.11(a)(29)), they are added in response to an issue

and therefore once the issue has been addressed in this manner it is not an issue that needs to be analyzed in detail. Design criteria are proactive responses to issues identified early in the interdisciplinary process of developing the proposed action and/or action alternatives or when conducting preliminary effects analysis, whereas adding “mitigations” (or “mitigation measures”) is a reactive response by the responsible official to the effects analysis. The definition clarifies that these two terms achieve similar outcomes (for example, avoid or minimize adverse effects), yet apply in distinctly different ways, and also facilitate analytic analysis.

The definition of “emergency” (7 CFR 1b.11(a)(13)) is added as this term was used in some of the USDA agency-specific NEPA regulations for emergency action provisions and the concept is carried forward into the USDA NEPA regulations for “immediate actions” and “urgent but not immediate actions” (7 CFR 1b.9(v) and (w)).

The definition of “extraordinary circumstances” (7 CFR 1b.11(a)(17)) is a concept carried forward from the now rescinded CEQ NEPA regulations and is defined in the USDA NEPA regulations. Some USDA agency-specific NEPA regulations included a definition of extraordinary circumstances, while others did not. While these former definitions served to inform the new definition, none of the previous definitions were used in their entirety. The definition included in the USDA NEPA regulations clarifies that an extraordinary circumstance is a unique situation that exists in which actions that normally do not have significant impacts—and are therefore categorically excluded from documentation in an environmental assessment or environmental impact statement—create uncertainty whether the degree of the effect is significant. The CEQ NEPA regulations and some USDA agency-specific NEPA regulations defined or discussed extraordinary circumstances in a way that created confusion as to when an extraordinary circumstance existed. Some interpreted an extraordinary circumstance to be present when a resource considered for extraordinary circumstances, such as federally listed threatened or endangered species or wetlands, was present. It is not the mere presence of a resource that means an extraordinary circumstance exists, but rather the cause-effect relationship between the proposed actions and the resource considered. An extraordinary circumstance exists only when there is reasonable uncertainty about whether

the degree of the impact is significant for the resource being considered.

The definition of “finding of applicability and no extraordinary circumstance” (7 CFR 1b.11(a)(19)) is added, as the USDA NEPA regulations clarify that the use of a categorical exclusion is dependent on determinations that a category (or categories) applies to the proposed actions and no extraordinary circumstance exists.

The definition of “issue” (7 CFR 1b.11(a)(23)) is added to promote analytic analysis that is focused on cause-effect relationships between the actions proposed (cause) and the reasonably foreseeable impacts (effect) on resources found in the affected environment. The purpose of considering issues is to identify opportunities to modify the proposed action, develop an action alternative, or supplement, improve, or modify the analysis to better understand the effects.

The definitions of “level of NEPA” and “NEPA process” (7 CFR 1b.11(a)(27) and (30)) are added as these terms are used in the regulations in several instances to refer to the different levels of NEPA or process to be completed, those being categorical exclusion, environmental assessment, or environmental impact statement. This also helps clarify that using a categorical exclusion is a NEPA process, as some entities in the past have erroneously alleged that an agency’s use of a categorical exclusion is “circumventing NEPA”.

The definition of “proposal record” (or “project record”) (7 CFR 1b.11(a)(38)) is added to standardize this term and concept for USDA as it is a key piece of the NEPA and integrated environmental review processes that can be overlooked. A well-organized and complete proposal record also can facilitate paperwork reduction.

The definition of “proposed action” (7 CFR 1b.11(a)(39)) is added to differentiate this from a proposal. “Proposal” is defined by NEPA as “a proposed action at a stage when an agency has a goal, is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and can meaningfully evaluate its effects”. The definition of proposed action takes this a step further to indicate this includes “design criteria” (where these apply) and that this is the version submitted for final interdisciplinary review and effects analysis. Defining a proposed action also can help responsible officials better determine when timelines start for environmental assessments and environmental impact statements to

track and meet the deadlines now established in NEPA.

The definition of “purpose and need” (7 CFR 1b.11(a)(41)) is added as this is a term used in NEPA (the Act itself) but not defined. The definition clarifies the purpose and need explains the “why here, why now” rationale for proposing an action, and that this also can incorporate the goals of an applicant (when applicable) and the subcomponent’s statutory duty to review an application for authorization.

The definitions of “scale” and “scope” (7 CFR 1b.11(a)(47) and (48)) are added as these terms are used in the USDA NEPA regulations when referring to the scale and scope of actions proposed and issues considered for analysis.

The definition of “substantive” (7 CFR 1b.11(a)(53)) is added to promote analytic analysis that focuses on information that meaningfully informs the consideration of reasonably foreseeable impacts on the human environment and the resulting significance determination or decisions on how to proceed. Not all issues need the same level of attention and analysis. Rather, it is substantive issues that should be the focus when conducting effects analysis and making iterative and final decisions on how to design, analyze, and implement an action.

Adds a list of acronyms (7 CFR 1b.11(b)) that may appear throughout 7 CFR 1b or that may be used when applying 7 CFR 1b during the applicable NEPA process.

7 CFR 1b.12—*Severability*: This section is added to read as indicated in 7 CFR 1b.12.

Adds a severability clause that clarifies that the sections of the USDA NEPA Implementing Regulations are separate and severable from one another and describes how other sections or portions may remain valid if another section or portion is stayed or determined to be invalid.

3. Agricultural Research Service Procedures for Implementing NEPA (Previously at 7 CFR 520)

The Agriculture Research Service (ARS) NEPA regulations are rescinded in full except for the following sections that have been consolidated in the 7 CFR 1b regulations: 7 CFR 520.5(b)(2)(i) and (iii).

—7 CFR 520.5(b)(2)(i) and (iii) were moved to examples of activities under one of the categorical exclusions previously codified at 7 CFR 1b.3 (department-wide CEs previously under section 1b.3 are now moved to section 1b.4). (now 7 CFR 1b.4(c)(3)(iv) and (v))

4. Animal and Plant Health Inspection Service NEPA Implementing Procedures (Previously at 7 CFR 372)

The Animal and Plant Health Inspection Service’s (APHIS) NEPA Implementing Procedures at 7 CFR part 372 are rescinded in full except for the following sections that have been moved to 7 CFR part 1b: 7 CFR 372.5(c)(1) through (3) and 7 CFR 372.5(c)(5) (any previously reserved sections are removed as new numbering is applied under 7 CFR 1b); and 7 CFR 372.10(b). Previously codified APHIS categorical exclusions are now found at 7 CFR 1b.4(c)(08) through (11).

Minor changes were made to former 7 CFR 372.5(c)(1) through (3) and 7 CFR 372.5(c)(5) as follows when they were moved over to 7 CFR 1b:

- 372.5(c)(1)(i): some terms were removed from this paragraph and added them to examples of activities under department-wide CEs previously codified at 7 CFR 1b.3 (department-wide CEs previously under § 1b.3 are now moved to § 1b.4). The example now reads as: “Identifications, inspections, surveys, sampling, testing, and monitoring that does not cause physical alteration of the environment.” (now 7 CFR 1b.4(c)(3)(i))
- 372.5(c)(1)(ii): revised “Examples of routine measures include” to now read as “Examples of routine measures include but are not limited to”. (now 7 CFR 1b.4(c)(8)(ii))
- 372.5(c)(2)(i)(B) and (D) were moved to examples of activities under one of the categorical exclusions previously codified at 7 CFR 1b.3 (department-wide CEs previously under § 1b.3 are now moved to § 1b.4). (now 7 CFR 1b.4(c)(3)(ii) and (iii))
- 372.5(c)(2)(i) and 372.5(c)(5): revised “Examples are” to now read as “Examples include but are not limited to”. (now 7 CFR 1b.4(c)(9) and (11))
- 372.5(c)(3)(ii) and (iii): modified by removing erroneous “or” in (ii) and removing erroneous “and” in (iii) and replacing it with “or”. (now 7 CFR 1b.4(c)(10))

Former section 372.10(b) had more extensive changes when it was moved to 7 CFR 1b.9(w)(1)(i). It was revised as follows:

- Eliminates language regarding environmental assessments as this discussion is now covered for all USDA agencies; uses more generalized language about who can approve alternative arrangements for emergency actions not anticipated to have a reasonably foreseeable significant effect given the ongoing

organizational restructuring at USDA that could affect office names or staff position titles; and, eliminates the requirement to document and report to CEQ the alternative arrangements approved at the agency level. (USDA agencies will continue to coordinate with CEQ on alternative arrangements for those activities anticipated to have reasonably foreseeable significant effects.)

5. Farm Service Agency General Implementing Regulations for NEPA (Previously at 7 CFR 799)

The Farm Service Agency (FSA) NEPA regulations are rescinded in full except for the following sections that have been moved to the 7 CFR 1b regulations: 7 CFR 799.12(b), 7 CFR 799.31(b)(1)(2) and (4) through (6), 7 CFR 799.32(d)(1)(2) and (3), 7 CFR 799.32(e)(1)(2) and (3). Previously codified FSA categorical exclusions are now found at 7 CFR 1b.4(c)(12) through (16) and (30) and (d)(1) and (2).

7 CFR 799.12(b) was moved to 7 CFR 1b.9(v) and (w) but is incorporated into the overall Department guidance for Emergencies, with one paragraph 1b.9(w)(1)(ii) clarifying how the FSA should coordinate alternative arrangements for urgent actions not anticipated to have reasonably foreseeable significant effects.

Categorical Exclusions (CEs) moved to 7 CFR 1b.4(c) (CEs not requiring documentation under NEPA) because they are historically low impact actions:

- 7 CFR part 799.31(b)(1) Loan Actions (combined with other “Loan Actions” categories under one category at 7 CFR 1b.4(c)(30))
- 7 CFR part 799.31(b)(2) Repair, improvement, or minor modification actions (now 7 CFR 1b.4(c)(13))
- 7 CFR part 799.31(b)(3)

Administrative actions are deleted as a category and added as examples under one of the categorical exclusions previously codified at 7 CFR 1b.3. (now 7 CFR 1b.4(c)(1)(i) through (iii))

- 7 CFR part 799.31(b)(4) Planting actions. (now 7 CFR 1b.4(c)(14))
- 7 CFR part 799.31(b)(5) Management actions. (now 7 CFR 1b.4(c)(15))
- 7 CFR part 799.31(b)(6) Other FSA actions (now labeled “Miscellaneous FSA Actions”). 799.31(b)(6)(vi) is revised to read as: Safety net programs without ground disturbance. “Without ground disturbance” was added as a clarifier, as the sentence providing this clarification is not moved to 7 CFR 1b. 7CFR 799.31(b)(6)(x) is removed because the adoption provision is no longer needed here. (now 7 CFR 1b.4(c)(16))

—7 CFR 799.32(d)(1) Loan Actions (combined with other “Loan Actions” categories under one category at 7 CFR 1b.4(c)(30))

—7 CFR 799.32(d)(2) Minor management, construction, or repair actions (now 7 CFR 1b.4(c)(12))

—7 CFR 799.32(d)(3) Other FSA actions (combined in list with categories labeled “Miscellaneous FSA Actions”) (now 7 CFR 1b.4(c)(16))

—799.32(d)(3)(iv): Removed as it is duplicative to another category already included in the now combined “Miscellaneous FSA Actions” list and the phrase “(this proposed action, in particular, has the potential to cause effects to historic properties and therefore requires analysis under section 106 of NHPA (54 U.S.C. 306108), as well as under the ESA and wetland protection requirements)” is not necessary as the determination for when compliance with NHPA (National Historic Preservation Act) and ESA (Endangered Species Act) is needed is appropriately done on a case-by-case or programmatic basis and is not appropriate to include in NEPA regulations.

—7 CFR 799.32(e)(1) Loan Actions (combined with other “Loan Actions” categories under one category at 7 CFR 1b.4(c)(30))

CEs moved to 7 CFR 1b (CEs requiring documentation under NEPA):

—7 CFR 799.32(e)(2) Construction or ground disturbance actions (now 7 CFR 1b.4(d)(1))

—7 CFR 799.32(e)(3) Management and planting type actions (now 7 CFR 1b.4(d)(2))

FSA is applying the definition of major Federal action, as established in the Fiscal Responsibility Act of 2023 (Pub. L. 118–5), which also amended NEPA. The agency has determined that several types of loan actions fall within one or more of the exclusions in the definition of major Federal actions and will be treating them as such; however, it's possible not all types of loans fall within the exclusions. For this reason, FSA is retaining the existing categories titled “Loan Actions”. FSA will continue to make case-by-case or programmatic determinations as to whether certain loans and potentially other programs or actions meet the statutory definition of major Federal action. Justifications for these and any other programmatic determinations will be made in agency-issued guidance.

6. National Institute of Food and Agriculture Implementation of NEPA Regulations (Previously at 7 CFR 3407)

The National Institute of Food and Agriculture (NIFA) regulations are rescinded in full except for the following sections that have been moved to the 7 CFR 1b regulations: 7 CFR 3407.6(a)(2)(i)(A) and (C).

—7 CFR 3407.6(a)(2)(i)(A) and (C) were moved to examples of activities under one of the categorical exclusions previously codified at 7 CFR 1b.3 (department-wide CEs previously under § 1b.3 are now moved to § 1b.4). (now 7 CFR 1b.4(c)(3)(iv) and (v))

7. Natural Resources Conservation Service Compliance With NEPA Regulations (Previously at 7 CFR 650)

The Natural Resources Conservation Service (NRCS) regulations are rescinded in full except for the following sections that have been consolidated in the 7 CFR 1b regulations: 7 CFR 650.6(a) and (d)(1) through (21). Previously codified NRCS categorical exclusions are now found at 7 CFR 1b.4(d)(3) through (23).

Minor changes were made to the categorical exclusion sections as follows when they were moved over to 7 CFR 1b:

—7 CFR 650.6(a): This section was moved to examples of activities under one of the categorical exclusions previously codified at 7 CFR 1b.3. (now 7 CFR 1b.4(c)(3)(vi) through (x))

—7 CFR 650.6(d)(14): Revised as follows. In the phrase “Work will be confined to the existing footprint of the dam . . .”, “existing” is replaced with “construction” to now read as “Work will be confined to the construction footprint of the dam”. (now 7 CFR 1b.4(d)(16))

—7 CFR 650.6(d)(15): Revised as follows. In the phrase “Work will be confined to the dam or abutment areas . . .”, the language “construction footprint of the” was inserted, to now read as “Work will be confined to the construction footprint of the dam or abutment areas . . .” (now 7 CFR 1b.4(d)(17))

—7 CFR 650.6(d)(16): Revised as follows. In the phrase “Repairing embankment slope failures on structures . . .”, the language “or reshaping the embankment” was inserted to now read as “Repairing embankment slope failures on structures or reshaping the embankment. . .” (now 7 CFR 1b.4(d)(18))

—7 CFR 650.6(d)(17): Revised as follows. In the phrase “Work will be

confined to the existing dam and abutment areas . . .”, “existing” is replaced with “construction footprint of” to now read as “Work will be confined to the construction footprint of the dam and abutment areas. . . .” (now 7 CFR 1b.4(d)(19))

These CEs focus on routine actions for the repair or updating of existing structures constructed under the Watershed Protection and Flood Prevention Act, Public Law 83–566, or the Flood Control Act, Public Law 78–534. The purpose of rehabilitation projects is to comply with current State safety standards and Federal performance standards, as well as the protection of environmental values associated with the project’s structures.

Upon review of the substantiation records associated with the development of these CEs and the NRCS staff’s professional knowledge and experience, NRCS determined it needed additional clarity to better define the appropriate scope of these CEs. The term “existing,” in reference to the dam structure, leads to an overly restrictive interpretation that does not meet standard maintenance procedures associated with rehabilitation actions, thus unintentionally restricting the scope and application of the CEs. NRCS completed an analysis of 51 recent site-specific dam rehabilitation EAs, all resulting in a finding of no significant impact. NRCS concluded that 34 of these projects could have been categorically excluded because the proposed action was limited to the dam construction footprint, which was previously disturbed during construction. The remaining 17 project-specific EAs did not meet the CE criteria because the rehabilitation construction footprint exceeded the original dam construction footprint or involved other actions outside the scope of the CE. These CEs are limited to developed areas, so this modification is not expected to create any new development. Therefore, NRCS determined that when applying these CEs, clarifying the parameters to account for the previously disturbed areas surrounding the finished dam, abutment, or dam slope does not typically result in a significant impact on the human environment and, therefore, justifies changes to the CEs.

The minor modifications reflect an effort by NRCS to provide further clarity and provide transparency regarding the activities, including the associated workspace, covered by the CEs. For actions under these categorical exclusions, NRCS personnel will continue to evaluate proposed actions

for potential impacts and extraordinary circumstances, including responsibility of the agency to comply with the National Historic Preservation Act and the Endangered Species Act.

Additionally, NRCS considered whether 7 CFR 650.6(c)(3) needed to be retained in the 7 CFR 1b as this section outlined conditions that must be met before using the categorical exclusions listed at § 650.6(d). Section 650.6(c)(3)(i) through (iii) do not warrant separate inclusion on the list because each of these is already addressed by the NRCS conservation practice standards and planning policies, which set forth minimum criteria and technical requirements for conservation projects nationwide. These standards are regularly updated through a rigorous national review process and require that all conservation practices be designed to mitigate soil erosion, sedimentation, and downstream flooding. Likewise, the standards mandate that disturbed areas be vegetated with adapted, non-invasive, and non-noxious species to ensure ecological compatibility and long-term site stability. Furthermore, NRCS standards and technical guides are built upon current industry standard engineering principles of natural stream dynamics and processes and are subject to ongoing review to reflect advances in resource management and restoration science.

Additionally, § 650.6(c)(3)(iv), “incorporate the applicable NRCS conservation practice standards as found in the Field Office Technical Guide,” is already built into NRCS planning procedures. These procedures specifically require an evaluation of alternative methods to meet conservation objectives and minimize negative impacts on the environment.

Lastly, § 650.6(c)(3)(v) (“Not require substantial dredging, excavation, or placement of fill”); and (vi) (“Not involve a significant risk of exposure to toxic or hazardous substances”) are already evaluated as part of the agency’s Determination of Significance or Extraordinary Circumstances, which must be considered by the agency’s Responsible Federal Official as part of the environmental review analysis.

NRCS has found that including these conditions as sideboards to applying the categorical exclusions is redundant and could create unnecessary regulatory overlap, as the NRCS Field Office Technical Guide and national standards already require adherence to these criteria as a prerequisite for all conservation planning, design, and implementation efforts. Recent coordination with another Federal agency adopting some of NRCS’

categorical exclusions reached the same conclusion as other Federal agencies have similar agency-specific conservation or best management practices as those outlined by NRCS.

8. Rural Development Environmental Policies and Procedures (Previously at 7 CFR 1970)

The Rural Development regulations are rescinded in full except for the following sections that have been moved to the 7 CFR 1b regulations: 7 CFR 1970.11(b); 7 CFR 1970.18(b); 1970.53(a)(7), (c)(1) through (c)(7) and (c)(9), (d)(2) through (11), (e), (f), and (g); 1970.54(a) through (c). Previously codified Rural Development categorical exclusions are now found at 7 CFR 1b.4(c)(17) and (18) and (d)(24) and (25).

Through this interim final rule, Rural Development is rescinding the process by which it determined which actions require environmental review as previously codified at 7 CFR 1970.8(c) and implementing the definition of major Federal action as established in the Fiscal Responsibility Act of 2023 (Pub. L. 118–5), which also amended NEPA. The agency has determined that several types of actions fall within one or more of the exclusions in the definition of major Federal action, and will be treating them as such. Rural Development will make case-by-case or programmatic determinations of which programs or actions do not meet the statutory definition of major Federal action. Justifications of programmatic determinations will be made in agency-issued guidance.

Due to these changes, Rural Development is removing several CEs for actions that the agency has determined do not meet the definition of major Federal action under NEPA and, therefore, do not require NEPA analysis. As such, actions previously codified at 7 CFR 1970.53(a)(1) through (a)(6), (b)(1) through (b)(3), (c)(8), (c)(9), (d)(1), and (f) through (h); and 1970.55 are being removed.

7 CFR 1970.11(b) is moved to 7 CFR 1b.2(h)(3) verbatim except for the addition of the following phrase at the beginning of the section to indicate it applies to the Rural Development mission area: “When agencies under the Rural Development mission area are obligating funds”.

7 CFR 1970.18(b) is revised and moved to 7 CFR 1b.9(w)(1)(iii) to align with the overarching Department guidance for Emergencies. Adds clarification for how to coordinate to get alternative arrangements approved for emergency actions not anticipated to have a reasonably foreseeable significant effect.

7 CFR 1970.53(d)(4) is revised to change the phrase “Includes pole replacements but does not include overhead-to-underground conversions” to now read as “Includes pole replacements and overhead-to-underground conversions”. (Now 7 CFR 1b.4(c)(18)(x).) The equipment used in overhead-to-underground is the same equipment used to install telecommunication fiber, which is covered by other agency categorical exclusions (for example, 7 CFR 1970.53(d)(1) and (2) for both aerial and buried fiber cable within existing rights-of-way). The action of installing underground electric is normally does not have a significant effect on the environment when performed in an existing previously disturbed utility right-of-way. Pole replacements and overhead-to-underground conversions are not significant construction activities with the potential to cause significant effects on the environment when constructed within a previously disturbed right-of-way and do not always require environmental documentation, provided that the activities are reviewed to rule out extraordinary circumstances. This revises the previous codification at 7 CFR 1970.53(d)(4), which required an environmental report. Since 2016, the agency has reviewed numerous projects of this type (overhead-to-underground conversion) as a categorical exclusion without significant impact on the environment and therefore has determined they were improperly excluded in previous rulemaking [March 2, 2016, 81 FR 11032].

7 CFR 1970.54(b)(2)(i) is revised to change the phrase “Within one mile of currently served areas irrespective of the percent of increase in new capacity” to now read as “Within 20 miles of currently served areas irrespective of the percent of increase in new capacity”. (Now 7 CFR 1b.4(d)(24)(ii)(B).) The change from one (1) mile to twenty (20) miles is based on the review and analysis of environmental assessments issued by the agency, as well as other Federal agency categorical exclusions. In addition, the removal of small-scale corridor development that increased capacity by more than 30 percent of the existing user population as a threshold requiring an environmental assessment, as previously codified at 7 CFR 1970.54(b)(2)(ii), is based on the review and analysis of environmental assessments issued by the agency, which documents that making the modifications will not normally result in significant effects on the environment. Rural Development has

the administrative record of applying 7 CFR 1970.53(b)(2) since the promulgation of 7 CFR 1970 and has found no instances where the review was elevated to an environmental assessment due to extraordinary circumstances. Further, the agency has reviewed records for over 100 environmental assessments completed for projects that proposed expansion of the distribution or collection system past one mile of the currently served areas or otherwise increased the capacity by more than 30 percent of the existing user population and found all of these to have concluded in a finding of no significant impact on the environment. As none of these projects has documented a significant impact on the environment, the agency is removing the population threshold.

7 CFR 1970.54(a)(4) is revised to remove the last sentence in the following: “Infrastructure to support utility systems such as water or wastewater facilities; headquarters, maintenance, equipment storage, or microwave facilities; and energy management systems. This does not include proposals that either create a new or relocate an existing discharge to or a withdrawal from surface or ground waters, or cause substantial increase in a withdrawal or discharge at an existing site.” (Now 7 CFR 1b.4(d)(24)(i)(D).) The agency has reviewed more than 300 environmental assessments for the activities described in the last sentence and found all of these to have concluded in a finding of no significant impact on the environment. Therefore, the agency has determined these activities do not normally result in a reasonably foreseeable significant effect and it is now appropriate for these actions to occur as part of using this category.

9. U.S. Forest Service NEPA Compliance Regulations (Previously at 36 CFR 220)

The U.S. Forest Service regulations are rescinded in full except for the following sections that are moved to the 7 CFR 1b regulations: 36 CFR 220.6(d)(1) through (12) and (e)(1) through (25) (any previously reserved sections are removed); and 220.4(b)(2). Previously codified Forest Service categorical exclusions are now found at 7 CFR 1b.4(c)(19) through (29) and (d)(26) through (47).

Minor changes were made to the categorical exclusion sections, 36 CFR 220.6(d) and (e), as follows when they were moved over to 7 CFR 1b.4(c) and (d): Generalized the requirement, or lack thereof, for documentation for categorical exclusions. The categorical exclusions requiring documentation did

not change. Where the discussion of documentation used Forest Service-specific terminology (for example, decision memo), this terminology has been removed, and the 7 CFR 1b regulations just state that documentation is required. This aligns with the 7 CFR 1b regulations, which establish consistent categorical exclusion documentation requirements for all USDA agencies.

36 CFR 220.6(e)(9) In the phrase, “Implementation or modification of minor management practices to improve allotment condition or animal distribution when an allotment management plan is not yet in place”, the following language was removed: “when an allotment management plan is not yet in place”. (Now 7 CFR 1b.4(d)(33).) An allotment management plan (AMP) is a document that specifies how the components of the program action will be implemented to reach a given set of objectives. An AMP is prepared in consultation with the permittee(s) associated with the allotment, and it prescribes the manner and extent to which livestock operations will be conducted; describes the type, location, and construction specifications for rangeland improvements; and contains such other provisions relating to livestock grazing on the associated allotment (see 36 CFR 222.1(b)). AMPs are created after a unit’s land management plan and a site-specific grazing decision, both of which undergo their own NEPA analysis. An AMP is the outcome of the grazing decision process. The presence or absence of an AMP does not change the on-the-ground effects of a rangeland improvement because AMPs do not override land management plans or grazing decisions. As such, the revision of language in the categorical exclusion is a minor change and technical in nature and does not modify the way rangeland improvements are designed or implemented, nor what is authorized in the land management plan or the grazing decision. Currently, most Forest Service grazing allotments have AMPs in place, making this CE unavailable to them. The proposed minor wording change will allow Federal agencies to efficiently maintain or improve rangeland conditions and animal distribution by eliminating a restriction based on paperwork requirements rather than indicators of whether the action may have significant effects, as was considered when initially establishing the category.

36 CFR 220.6(e)(16) was revised to clarify that the land management plan approval document required by 36 CFR part 219 satisfies the documentation

requirement for this categorical exclusion. (Now 7 CFR 1b.4(d)(38).) In the phrase, “. . . are outside the scope of this category and shall be considered separately under Forest Service NEPA procedures,” “Forest Service” was replaced with “USDA” to now read as, “. . . are outside the scope of this category and shall be considered separately under USDA NEPA procedures.” An update to recordkeeping procedures does not change the significance determination made when establishing this CE.

36 CFR 220.4(b)(2) was revised as follows when moved to 7 CFR 1b.9(w)(1)(iv): eliminates language regarding categorical exclusions, environmental assessments, and findings of no significant impact as this discussion is now covered for all USDA agencies; and, uses more generalized language about the process for approving alternative arrangements for emergency actions not anticipated to have reasonably foreseeable significant effects given the ongoing organizational restructuring at USDA that could affect office names and staff position titles.

The Forest Service recognizes that the rescission of the 36 CFR 220 regulations has implications on the 36 CFR 218 regulation for the project-level pre-decisional administrative review process. Until the 36 CFR 218 regulation is revised to align with 7 CFR 1b, the Forest Service will continue to apply 36 CFR 218 as currently required. While the 7 CFR 1b regulations do not include a “decision notice” for environmental assessments, the revised regulations do clarify at 7 CFR 1b.6(c) that, “If a statute or regulation explicitly requires a decision document to approve actions analyzed in an environmental assessment, the finding of no significant impact can be retitled to indicate its function as a decision document”. This is to account for continued application of the 36 CFR 218 regulations for environmental assessments that required issuance of a decision notice under the 36 CFR 220 regulations (§ 220.7(c)).

C. Transition Period for USDA NEPA Regulations

The Department intends to provide USDA subcomponents with discretion to determine which NEPA procedures to apply to individual proposals, given the widely varying circumstances and stages of pending NEPA analyses. To ensure an orderly transition without undue impact on the USDA mission, USDA subcomponents have discretion to continue using the versions of USDA and agency-specific NEPA regulations in place before publication of this

interim final rule, as well as the 2020 version of the CEQ NEPA regulations, where it makes sense for proposals that are at a certain stage in the applicable NEPA process (categorical exclusion, environmental assessment, or environmental impact statement). To the extent any of these prior regulations conflict with the statute, as amended by the Fiscal Responsibility Act in 2023 or the U.S. Supreme Court decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), the statute governs. USDA subcomponents also have the discretion to begin applying the USDA NEPA regulations, as revised, effective immediately upon publication of this interim final rule where it makes sense to do so for new proposals and applications, or for existing proposals or applications that are in the early stages of the applicable NEPA process and can easily transition to using the revised USDA NEPA regulations. Upon the effective date of a final rule, USDA subcomponents will be expected to apply the revised 7 CFR 1b when initiating proposals and accepting new applications. The final rule will contain additional transition language.

III. Request for Comments

A. Notice-and-Comment Rulemaking Is Not Required

USDA is revising its prior procedures and practices for implementing NEPA, a “purely procedural statute” which “simply prescribes the necessary process for an agency’s environmental review of a project”—a review that is, even in its most rigorous form, “only one input into an agency’s decision and does not itself require any particular substantive outcome.” *Seven County*, 145 S. Ct., at 1510–11 (internal quotation marks omitted). “NEPA imposes no substantive constraints on the agency’s ultimate decision to build, fund, or approve a proposed project,” and “is relevant only to the question of whether an agency’s final decision—i.e., that decision to authorize, fund, or otherwise carry out a particular proposed project or activity—“was reasonably explained.” *Id.* at 1511. Procedures for implementing a purely procedural statute must be, by their nature, procedural rules. And even if that were not universally true, the new rules adopted in this notice are purely procedural.

Thus, unsurprisingly, both the prior and revised versions of USDA’s NEPA regulations do not dictate what outcomes such consideration must produce, nor do they impose binding legal obligations on private citizens.

Rather, they prescribe how USDA will conduct NEPA reviews: detailing the structure of environmental impact statements, specifying submission requirements, and directing the timing of public comment periods. These are procedural provisions, not substantive environmental ones. Thus, because procedural rules do not require notice and comment, they do not require notice and comment to be revised. *See* 5 U.S.C. 553(b)(A).

Moreover, even if (and to the extent that) USDA’s regulations are not procedural rules, they may be characterized as interpretive rules or general statements of policy under 5 U.S.C. 553(b)(A). An interpretive rule provides an interpretation of a statute, rather than make discretionary policy choices that establish enforceable rights or obligations for regulated parties under delegated congressional authority. The definitions section at 7 CFR 1b.11, for instance, may be classified as such. General statements of policy, meanwhile, provide notice of an agency’s intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. 7 CFR 1b.1 and 1b.2, for instance, may be classified as general statements of policy. Both of these types of agency actions are expressly exempted from notice and comment by statute. 5 U.S.C. 553(b)(A).

Accordingly, although USDA is voluntarily providing notice and an opportunity to comment on this interim final rule, it has determined that notice-and-comment procedures prior to issuance are not required. The fact that USDA previously undertook notice-and-comment rulemaking in promulgating these regulations is immaterial. As the Supreme Court has held, where notice-and-comment procedures are not required, prior use of them in promulgating a rule does not bind the agency to use such procedures in making future changes. *See Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 101 (2015).

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

Moreover, USDA also finds that, to the extent that prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the need to expeditiously replace its existing rules satisfies the “good cause” exceptions in 5 U.S.C. 553(b)(B) and (d). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for

good cause, that notice and comment is “impracticable, unnecessary, or contrary to the public interest,” 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). As discussed in Sections I and II, above, USDA’s prior rules were promulgated as a “supplement[.]” to the Council on Environmental Quality’s (CEQ’s) NEPA regulations, and USDA also “adopt[ed]” the CEQ’s regulations by incorporation. 7 CFR 1b.1(a) Following the rescission of CEQ’s regulations, USDA’s current rules are left to supplement a NEPA framework that no longer exists. USDA, thus far and as a temporary, emergency measure, has been continuing to operate under its prior procedures as if the CEQ NEPA framework still existed. This is not, however, tenable. As soon as proper procedures are available—which they are now—this makeshift framework needs to be rescinded immediately.

That being so, rescinding the old procedures immediately without replacing them could create a vacuum that would inflict immense uncertainty on agencies and regulated parties and potentially grind all projects under USDA’s purview to a halt. So, pairing the rescission with a new structure immediately is absolutely critical. Because of this need for speed and certainty, notice-and-comment is, to the extent it was otherwise required at all, impracticable and contrary to the public interest.

For the same reasons stated in the present section, above, USDA finds that “good cause” exists under 5 U.S.C. § 553(d)(3) to waive the 30-day delay of the effective date that would otherwise be required. This interim final rule will accordingly be effective immediately.

C. USDA Voluntarily Solicits Comment

As explained above, comment is not required prior to issuance because USDA’s NEPA procedures were and are procedural and because, even if comment were otherwise required under the APA, good cause exists to forego it. Nevertheless, USDA has elected to voluntarily solicit comment on this interim final rule and encourages public comments on all aspects of this interim final rule. However, USDA emphasizes that reconsideration of CEQ rulemakings and actions, for example, CEQ’s determination to rescind its NEPA regulations, are beyond the scope of this interim final rule. USDA is not soliciting comment on any of CEQ’s prior rulemakings or amendments to CEQ’s NEPA regulations. Nor does this interim final rule take a position on the

Department’s or any USDA agency’s prior interpretations of NEPA’s procedural requirements. Comments are requested for 30 days and must be submitted timely by July 30, 2025 to receive proper consideration by the Department. The Department may, after consideration of comments received, make changes accordingly to the interim final rule.

IV. Regulatory Certifications

A. Regulatory Planning and Review

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. OIRA has determined that this interim final rule is significant as defined by E.O. 12866. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation’s regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Department has developed the interim final rule consistent with E.O. 13563.

B. Congressional Review Act

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*), OIRA has designated this interim final rule as not a major rule as defined by 5 U.S.C. 804(2). This procedural action, in any event, is not a rule at all under 5 U.S.C. 804(3)(C).

C. National Environmental Policy Act

This interim final rule is procedural in its entirety and therefore does not require preparation of a NEPA analysis. NEPA does not require environmental analysis or documentation when establishing procedural guidance. The determination that establishing department-level NEPA procedures does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc. v. U.S. Forest Service*, 230 F.3d 947, 954–55 (7th Cir. 2000).

D. Regulatory Flexibility Act

The Regulatory Flexibility Act only applies to general notices of proposed rulemaking. Because a notice of proposed rulemaking is not required for this action pursuant to 5 U.S.C. 553, or any other law, no regulatory flexibility analysis has been prepared for this interim final rule. See 5 U.S.C. 601(2), 603(a).

E. Federalism

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

F. Consultation and Coordination With Indian Tribal Governments

E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*, requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes. This interim final rule does not impose substantial direct compliance costs on Tribal governments and does not preempt Tribal law. The Department has reviewed this interim final rule in accordance with the requirements of E.O. 13175 and has determined that this interim final rule will not have substantial direct effects on Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Therefore, consultation and coordination with Indian Tribal governments is not required for this interim final rule.

G. Energy Effects

The Department has reviewed the interim final rule under E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*. The Department has determined that the interim final rule will not constitute a significant energy action as defined in E.O. 13211.

H. Civil Justice Reform

The Department has analyzed the interim final rule in accordance with the principles and criteria in E.O. 12988, *Civil Justice Reform*. Upon publication of the interim final rule, (1) all State and local laws and regulations that conflict with the interim final rule or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this interim final rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

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

I. Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of the interim final rule on State, local, and Tribal governments and the private sector. The interim final rule will not compel the expenditure of \$100 million or more, adjusted annually for inflation, in any one (1) year by State, local, and Tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202 of the Act is not required. This action also does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect subject to the requirements of 2 U.S.C. 1531–1538.

J. Paperwork Reduction Act

The interim final rule does not contain any recordkeeping or reporting requirements, or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects

7 CFR Parts 1b and 372

Environmental impact statements.

7 CFR Part 520

Agricultural research, Environmental impact statements.

7 CFR Part 650

Environmental impact statements, Flood plains.

7 CFR Part 799

Environmental impact statements, Organization and functions (Government agencies).

7 CFR Part 1970

Administrative practice and procedure, Buildings and facilities, Environmental impact statements, Environmental protection, Grant programs, Housing, Loan programs, Natural resources, Utilities.

7 CFR Part 3407

Agricultural research, Environmental impact statements, Grant programs—agriculture.

36 CFR Part 220

Administrative practice and procedure, Environmental impact statements, Environmental protection, National forests, Science and technology.

Therefore, for the reasons set forth in the preamble, and under the authority of 5 U.S.C. 301 and 42 U.S.C. 4321–4347, the Department revises 7 CFR part 1b, and removes and reserves 7 CFR parts 372, 520, 650, 799, 1970, 3407, and 36 CFR part 220 as follows:

Title 7—Agriculture

■ 1. Revise part 1b to read as follows:

PART 1b—NATIONAL ENVIRONMENT POLICY ACT

Sec.

1b.1 Purpose.

1b.2 Policy.

1b.3 Categorical exclusions and findings of applicability and no extraordinary circumstance.

1b.4 Categorical exclusion of USDA subcomponents and actions.

1b.5 Environmental assessments.

1b.6 Finding of no significant impact.

1b.7 Environmental impact statements.

1b.8 Records of decision.

1b.9 Efficient and effective environmental reviews.

1b.10 Documentation prepared by applicant or third party.

1b.11 Definitions and acronyms.

1b.12 Severability.

Authority: 5 U.S.C. 301; 42 U.S.C. 4321 *et seq.*; E.O. 11514, 3 CFR, 1966–1970 Comp., p. 902, as amended by E.O. 11991, 3 CFR, 1978 Comp., p. 123; E.O. 12114, 3 CFR, 1980 Comp., p. 356; 40 CFR 1507.3.

§ 1b.1 Purpose.

(a) *Purpose.* The purpose of this part is to outline the procedures by which the U.S. Department of Agriculture (hereinafter USDA or the Department)

will integrate the National Environmental Policy Act (NEPA) into decision-making processes. Specifically, this part: describes the process by which USDA determines what actions are subject to NEPA's procedural requirements and the applicable level of NEPA review; ensures that relevant environmental information is identified and considered early in the process in order to ensure informed decision making; enables USDA to conduct coordinated, consistent, predictable and timely environmental reviews; reduces unnecessary burdens and delays; and implements NEPA's mandates regarding lead and cooperating agency roles, page and time limits, and sponsor preparation of environmental assessments and environmental impact statements.

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

(c) *Applicability.* This part is applicable to all mission areas, agencies and general offices (hereinafter USDA subcomponent or subcomponent) of the U.S. Department of Agriculture.

(d) *Authority.* NEPA imposes certain procedural requirements on the exercise of USDA's existing legal authority in relevant circumstances. Nothing contained in these procedures is intended, nor should be construed to limit, USDA's other authorities or legal responsibilities.

§ 1b.2 Policy.

(a) *USDA compliance with NEPA.* It is the policy of USDA that all USDA subcomponents' policies and programs shall be planned, developed, and implemented to comply with Congress' directives in NEPA, as amended by the Fiscal Responsibility Act of 2023, with the understanding that NEPA is a purely procedural statute that imposes no substantive environmental obligations or restrictions.

(1) The Under Secretary of Natural Resources and Environment (NRE) is responsible for ensuring that these USDA NEPA regulations are consistent with NEPA and will coordinate compliance for the Department.

(2) The Under Secretary of NRE may engage the Agricultural Council on Environmental Quality (7 U.S.C. 5401, Pub. L. 101–624) when developing, revising, or amending the necessary

processes to be used by the Office of the Secretary in reviewing, implementing, and planning its NEPA activities, determinations, and policies.

(3) The Under Secretary of NRE will consult with the Council on Environmental Quality (CEQ) while developing or revising the USDA NEPA regulations, as established in this part, in accordance with NEPA section 102(2)(B), 42 U.S.C. 4332(B).

(b) *Managing NEPA compliance.* Within USDA, the Under Secretary of NRE shall perform all of the duties and exercise all of the powers and functions of the senior agency official to ensure compliance with NEPA and the Department's policies for NEPA, including resolving implementation issues.

(1) The senior agency official shall:

(i) Administer the implementation of NEPA for USDA, to include USDA subcomponent adherence to this part and approving all revisions to this part;

(ii) Centralize information technology and databases regarding documentation and analyses required by NEPA and this part; and

(iii) Compile and submit the annual report to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate that identifies any environmental assessment and environmental impact statement that such lead agency did not complete by the deadline described in NEPA section 107(g), 42 U.S.C. 4336a(g) and provides an explanation for any failure to meet such deadline.

(2) The senior agency official may delegate authority to another mission area Under Secretary, or other USDA official for a subcomponent with NEPA responsibilities, to perform the duties of the senior agency official for the following:

(i) Ensuring that subcomponent staff have the resources and competencies necessary to produce timely, concise, and effective environmental documents;

(ii) Reviewing and approving the adoption or modification of any subcomponent-specific NEPA guidance (as permitted in paragraph (c) of this section);

(iii) Determining that an environmental impact statement is of extraordinary complexity and therefore, pursuant to NEPA section 107(e)(1)(B), 42 U.S.C. 4336a(e)(1)(B), may exceed 150 pages but not exceed 300 pages;

(iv) Reviewing and determining whether to authorize any deviation from the time limit for preparation of environmental assessments and environmental impacts statements, as

established by NEPA section 107(g), 42 U.S.C. 4336a(g);

(v) Resolving implementation issues concerning documentation prepared by applicants and third parties (e.g., contractors), as well as ensuring NEPA analyses for proposals of private applicants or other non-Federal entities commence at the earliest reasonable time;

(vi) Establishing subcomponent procedures for appropriate bonding or other security;

(vii) Approving, or identifying a designee to approve, alternative arrangements for complying with NEPA for emergency actions when a reasonably foreseeable significant impact is not anticipated, as described in § 1b.9(w)(1);

(viii) Receiving or responding to written requests that a lead agency be designated when requests are received from any Federal agency, or any State, Tribal, or local agency, or private person substantially affected by the absence of lead agency designation; and

(ix) Facilitating interagency disagreements concerning designation of a lead or joint agency or disagreements over proposed major Federal actions that might cause reasonably foreseeable significant impacts and determining whether the disagreement needs elevated to the Council on Environmental Quality.

(c) *Subcomponent-specific NEPA guidance.* It is the policy of USDA that USDA subcomponents may establish subcomponent-specific NEPA guidance when necessary to refine NEPA processes and practices to address subcomponent-specific laws and program efficiency. Additional subcomponent-specific guidance shall avoid creating unnecessary process and should not repeat the requirements, definitions, or other matters that are set forth in this part or the Act itself.

(d) *Annual report to Congress.* NEPA section 107(h)(1)(A) and (B), 42 U.S.C. 4336a(h)(1)(A) and (B), requires the head of each lead agency to annually submit to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that identifies any environmental assessment and environmental impact statement that such lead agency did not complete by the deadline described in NEPA section 107(g), 42 U.S.C. 4336a(g) and provides an explanation for any failure to meet such deadline.

(1) The USDA Senior Agency Official (or their designee) shall coordinate USDA subcomponent responses for the annual report to Congress and

consolidate these into one response that will be provided to Congress to ensure departmental awareness and oversight of environmental assessments and environmental impact statements not completed within the required deadlines established in NEPA section 107(g), 42 U.S.C. 4336a(g).

(2) Each USDA mission area that contains subcomponents with NEPA responsibilities will submit a report to the USDA Senior Agency Official, or their designee, following guidance provided by the Department on an annual basis.

(i) For those USDA mission areas with more than one subcomponent contributing to the report, subcomponent responses shall be consolidated and one response provided for the mission area.

(ii) The USDA Senior Agency Official, or their designee, shall ensure the final report meets the requirements of NEPA section 107(h), 42 U.S.C. 4336a(h).

(e) *Determining when NEPA applies.* Threshold determinations of whether NEPA applies may be made on a case-by-case or programmatic basis and record keeping of the justifications for these determinations is advisable. In determining whether NEPA applies, USDA will consider only the proposed action or a project at hand. NEPA does not apply to a proposal when:

(1) The proposal is not a "major Federal action." The terms "major" and "Federal action," each have independent force. NEPA applies only when both of these two criteria are met. Such a determination is inherently bound up in the facts and circumstances of each individual situation, and is thus reserved to the judgment of USDA in each instance;

(2) The proposal or decision is exempted from NEPA by law;

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

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

(5) Compliance with NEPA would clearly and fundamentally conflict with

the requirements of another provision of law; or

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

(f) *Determining the appropriate level of NEPA review.* At all steps in the following process, USDA subcomponents will consider the nature of the proposal or project at hand, the potentially affected environment, and the anticipated degree of effect:

(1) In accordance with NEPA section 106(b)(3), 42 U.S.C. 4336(b)(3), when making a determination on the level of review needed, a USDA subcomponent:

(i) May make use of any reliable data source; and

(ii) Is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable.

(2) If a USDA subcomponent determines under § 1b.2(e) that NEPA applies to a proposal or decision, the subcomponent will then determine the appropriate level of NEPA review in the following sequence and manner:

(i) If the subcomponent has established, or adopted pursuant to NEPA section 109, 42 U.S.C. 336c, a categorical exclusion that covers the proposed action, the subcomponent will analyze whether to apply the categorical exclusion to the proposed action and apply the categorical exclusion, if appropriate, pursuant to § 1b.3(f) and (g).

(ii) If another agency has already established a categorical exclusion that covers the proposed action, the subcomponent will consider whether to adopt that exclusion pursuant to § 1b.3(c) so that it can be applied to the proposed action at issue, and to future activities or decisions of that type.

(iii) If the proposed action warrants the establishment of a new categorical exclusion, or the revision of an existing categorical exclusion, pursuant to § 1b.3(b), the subcomponent will consider whether to establish, or revise, and then apply the categorical exclusion to the proposed action pursuant to § 1b.3(f) and (g).

(iv) If a USDA subcomponent cannot apply a categorical exclusion to the proposed action consistent with paragraph (f)(2)(i) through (iii) of this section, the subcomponent will consider the proposed action's reasonably foreseeable significant impacts consistent with paragraph (f)(3) of this section, and then will:

(A) if the proposed action is not likely to have reasonably foreseeable significant impacts or the significance of the impacts is unknown, develop an environmental assessment, as described in § 1b.5; or

(B) if the proposed action is likely to have reasonably foreseeable significant impacts, develop an environmental impact statement, as described in § 1b.7.

(3) When considering whether the reasonably foreseeable impacts of an action are significant, USDA subcomponents will consider and analyze the potentially affected environment and degree of the effects of the action.

(i) Potentially affected environment means the condition of the physical, biological, social, and economic factors that may be impacted by an action.

(ii) In considering the degree of effects, USDA subcomponents should consider the following, as appropriate to the specific action and in the context of the potentially affected environment:

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

(B) Both beneficial and adverse effects.

(C) Effects on public health and safety.

(D) Economic effects.

(E) Effects on the quality of life of the American people.

(iii) In providing rationale for whether the degree of effect is significant, responsible officials shall consider:

(A) How the unavoidable short- and long-term adverse impacts of implementing the action compares to the short- and long-term adverse or beneficial consequences of not implementing the action; and

(B) How the irreversible or irretrievable commitment of a resource, as part of the action, contributes to a loss of long-term productivity for the human environment.

(g) *Integrated environmental review and compliance.* It is the policy of USDA that, to the fullest extent possible, USDA subcomponents should conduct NEPA reviews concurrent and integrated with other environmental effects analyses and related surveys and studies required by all other Federal environmental review laws and Executive orders applicable to the proposal, including the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*), the National Historic Preservation Act of 1966 (54 U.S.C. 300101–306108), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the Clean Water Act of 1972 (33 U.S.C. 1251 *et seq.*).

(h) *Limitations on actions during the NEPA process.* It is the policy of USDA that, except as provided in § 1b.9(v) and

(w), while a NEPA review is ongoing a USDA subcomponent will take no action concerning a proposal that would have an adverse environmental effect or limit the choice of reasonable alternatives when alternatives are necessary.

(1) For proposals that are initially developed by applicants or other non-Federal entities, USDA subcomponents will:

(i) Coordinate with the non-Federal entity at the earliest reasonable time in the planning process to inform the entity what information a USDA subcomponent might need to comply with NEPA, as well as any other applicable environmental review processes, and establish a schedule for completing steps in the NEPA review process consistent with NEPA's statutory deadlines and any internal subcomponent NEPA schedule requirements; and

(ii) Begin the NEPA process by determining whether NEPA applies, as described in paragraph (e) of this section, and if it does, determine the appropriate level of NEPA review, as described in paragraph (f) of this section, as soon as practicable after receiving the complete application.

(2) If USDA is considering an application from a non-Federal entity and becomes aware that the applicant is about to take an action within USDA's jurisdiction that would meet either of the criteria in § 1b.2.h, USDA will promptly notify the applicant that USDA will take appropriate action to ensure that the objectives and procedures of NEPA are achieved. This section does not preclude development by applicants of plans or designs or performance of other activities necessary to support an application for Federal, State, Tribal, or local permits or assistance. When considering a proposed action for Federal funding, USDA may authorize such activities, including, but not limited to, acquisition of interests in land (*e.g.*, fee simple, rights-of-way, and conservation easements), purchase of long lead-time equipment, and purchase options made by applicants.

(3) When agencies under the Rural Development mission area are obligating funds, the environmental review process must be concluded before the obligation of funds except for infrastructure projects where the assurance that funds will be available for community health, safety, or economic development has been determined as necessary by the Agency Administrator. At the discretion of the Agency Administrator, funds may be obligated contingent upon the

conclusion of the environmental review process prior to any action that would have an adverse effect on the environment or limit the choices of any reasonable alternatives. Funds so obligated shall be rescinded if the agency cannot conclude the environmental review process before the end of the fiscal year after the year in which the funds were obligated, or if the agency determines that it cannot proceed with approval based on findings in the environmental review process. For the purposes of this section, infrastructure projects shall include projects such as broadband, telecommunications, electric, energy efficiency, smart grid, water, sewer, transportation, and energy capital investments in physical plant and equipment, but not investments authorized in the Housing Act of 1949.

(4) *Adjudication.* An adjudication may be a multi-member commission that employs staff recommendations as described here. For adjudication, the environmental document will normally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances, the document may follow preliminary hearings designed to gather information for use in the statements.

§ 1b.3 Categorical exclusions and findings of applicability and no extraordinary circumstance.

(a) *Generally.* This section describes the process USDA uses for establishing and revising categorical exclusions (CEs), for adopting other agencies' CEs, for removing CEs, for applying CEs to a proposed action, for considering extraordinary circumstances, and for relying on another Federal agency's CE determination. USDA categorical exclusions, including CEs USDA established and substantiated consistent with CEQ's previous NEPA procedures, are listed at § 1b.4. Notification of CEs adopted by a USDA subcomponent from other agencies will be in accordance with paragraph (c) of this section and tracked by USDA's Natural Resources and Environment mission area for use by any other USDA agency.

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

(1) Develop a written record containing information to substantiate its determination;

(2) Consult with CEQ on its proposed categorical exclusion, including the written record, for a period not to exceed 30 days prior to providing public notice as described in paragraph (b)(3) of this section; and

(3) Provide public notice of USDA's establishment or revision of the categorical exclusion and the written justification in the **Federal Register**.

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

(1) Identify the categorical exclusion listed in another agency's NEPA procedures that covers its category of proposed or related actions;

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

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

(i) Public notification will be provided on a USDA website and the adoption of the category will be tracked by USDA's Natural Resources and Environment mission area. Once a categorical exclusion is adopted by one USDA subcomponent, it will be available for use to all other USDA subcomponents.

(ii) Non-USDA categories that were already adopted by a USDA subcomponent prior to the 2025 revision of this part are tracked by USDA's Natural Resources and Environment mission area and may be used by any other USDA subcomponent on proposed actions that fit the categorically excluded actions. Adopted categories will be listed on a USDA website.

(d) *Removal of categorical exclusions.* To remove a categorical exclusion from § 1b.4 of this part, a USDA subcomponent will:

(1) Develop a written justification for the removal;

(2) Consult with CEQ on its proposed removal of the categorical exclusion, including the written justification, for a period not to exceed 30 days prior to providing public notice as described in subparagraph (3) below; and

(3) Provide public notice of USDA's removal of the categorical exclusion and the written justification in the **Federal Register**.

(e) *Applying categorical exclusions.* If a USDA subcomponent determines that one or more categorical exclusions applies to a proposed action, the subcomponent will evaluate the action for extraordinary circumstances. USDA subcomponents may apply any of the categorical exclusions listed at § 1b.4. If a USDA subcomponent determines that a categorical exclusion established through legislation, or a categorical exclusion that Congress through legislation has directed USDA to establish, covers a proposed agency action, USDA will conclude review consistent with applicable law. If appropriate, USDA may examine extraordinary circumstances, modify the proposed action, or document the determination that the legislative categorical exclusion applies, consistent with paragraph (g) of this section and the legal authority for the establishment of the legislative categorical exclusion.

(f) *Extraordinary circumstances.* When applying categorical exclusions, USDA subcomponents shall consider relevant resources in the potentially affected environment for which an extraordinary circumstance may exist that would require the action to instead be documented in an environmental assessment (when there is uncertainty regarding the degree of effect) or an environmental impact statement (if it is determined there is a reasonably foreseeable significant impact). Resources for consideration for extraordinary circumstances will be determined at the responsible official's sole discretion and shall be based on the nature of the actions proposed and in the context of the potentially affected environment.

(1) The resources to screen for in the potentially affected environment when considering extraordinary circumstances may include, but are not limited to:

(i) Federally listed threatened or endangered species or designated critical habitat or species proposed for Federal listing or proposed critical habitat;

(ii) Flood plains, wetlands, or other such sensitive areas;

(iii) Special sources of water, such as sole-source aquifers, wellhead protection areas, municipal watersheds, or other water sources that are vital in a region;

(iv) Areas having formal Federal or state designations, such as wilderness areas, parks, or wildlife refuges; wild and scenic rivers; marine sanctuaries; national natural landmarks; inventoried roadless areas; or national recreation areas;

(v) Specially managed areas, such as designated research or experimental areas, coral reefs, coastal barrier resources, or, unless exempt, coastal zone management areas;

(vi) Important or prime agricultural, forest, or range lands; or

(vii) Property (*e.g.*, sites, buildings, structures, and objects) of historic, archeological, or architectural significance, as designated by Federal, Tribal, State, or local governments, or property eligible for listing on the National Register of Historic Places.

(2) The mere presence of one or more of the resources listed in paragraph (f)(1) of this section, or as otherwise identified at the sole discretion of the responsible official, does not mean an extraordinary circumstance exists. If there is a cause-effect relationship (impact) between the proposed actions and the resource considered, an extraordinary circumstance exists only when there is reasonable uncertainty whether the degree of the effect is significant or certainty that the degree of effect is significant.

(3) If an extraordinary circumstance exists, the responsible official may modify the proposed action, or take other steps, such that certainty is created regarding the degree of effect and it is determined the degree of effect is not a reasonably foreseeable significant impact for the resource(s) considered that initially led to the existence of an extraordinary circumstance. With this outcome, the extraordinary circumstance will be considered to no longer exist and use of the categorical exclusion may proceed.

(4) When effects analysis is completed to demonstrate compliance with other applicable environmental laws, regulations, or executive orders (*e.g.*, analysis completed for Endangered Species Act, National Historic Preservation Act, Clean Water Act, etc.) and already addresses one of the resources in paragraph (f)(1) of this section or as identified at the sole discretion of the responsible official, and it is clear from that analysis and compliance discussion that no extraordinary circumstance exists for the resource considered, the responsible official may rely on that analysis to inform their finding of no extraordinary circumstance.

(g) *Findings of applicability and no extraordinary circumstances (FANEC).* To apply a categorical exclusion, a responsible official must determine that one or more categorical exclusions apply to a proposed action and that no extraordinary circumstance exists. For those categories that require NEPA documentation, as specified in § 1b.4(d),

responsible officials shall document these determinations as outlined in paragraphs (g)(1) and (2) of this section.

(1) A USDA subcomponent shall document a finding of applicability and no extraordinary circumstance (FANEC) if the subcomponent determines, based on the NEPA review, that:

(i) An action is categorically excluded from documentation in an environmental assessment or environmental impact statement;

(ii) No extraordinary circumstance exists; and

(iii) The category requires NEPA documentation in accordance with statute, § 1b.4(d), or as required by the Federal agency regulations or procedures from which a category was adopted.

(2) USDA subcomponents may apply any format they choose to document the finding of applicability and no extraordinary circumstance, but shall address the following elements at a minimum:

(i) Incorporate by reference any other relevant documentation developed as part of the environmental review process and contained in the proposal record, such as documentation of compliance with other applicable laws or regulations as deemed necessary by the responsible official;

(ii) State the category or categories being used. If a category being used is adopted from another non-USDA agency, specify that it was adopted;

(iii) Describe the proposed action and certify the category or categories used are applicable to the actions;

(iv) State the resources that the responsible official considered in determining whether an extraordinary circumstance exists;

(v) State that no extraordinary circumstances exist, as informed by the interdisciplinary review; and

(vi) Include the date issued and signature of the responsible official.

(h) *Reliance on categorical exclusion determinations of other agencies.* Responsible officials may also rely on another agency's determination that a categorical exclusion applies, and no extraordinary circumstance exists, for a particular proposed action if the agency action covered by those determinations and the USDA subcomponent's proposed actions and potentially affected environment are substantially the same. The responsible official will document their reliance on another agency's categorical exclusion determination and include this in the proposal record.

(i) *Other documentation considerations.* If use of a categorical exclusion requires documentation in

addition to those items listed in paragraph (g)(2) of this section, as specified in statute or regulation, USDA subcomponents may add them to the documentation for the finding of applicability and no extraordinary circumstance as needed.

(j) *Timing of action.* Once the responsible official has signed the documentation for the finding of applicability and no extraordinary circumstance, and unless other statutes or regulations require otherwise, the USDA subcomponent or applicant may begin implementing the action. When NEPA documentation is not required for a categorical exclusion, once the responsible official has determined one or more categorical exclusions applies to a proposed action and no extraordinary circumstance exists and has completed any other necessary environmental review documentation, and unless other statutes or regulations require otherwise, the USDA subcomponent or applicant may begin implementing the action.

§ 1b.4 Categorical exclusion of USDA subcomponents and actions.

(a) The USDA subcomponents listed in paragraphs (a)(1) through (9) of this section conduct programs and activities that do not normally result in reasonably foreseeable significant impacts on the natural or physical environment. As such, these subcomponents' actions are excluded from the preparation of an environmental assessment (EA) or environmental impact statement (EIS). Programs and activities of the USDA subcomponents listed in this paragraph may utilize categorical exclusions, as described in this part, but do not require the preparation of an EA or EIS unless the subcomponent determines that an extraordinary circumstance exists for an individual action and obtains the concurrence of the USDA Senior Agency Official (Undersecretary of Natural Resources and Environment) (or their designee):

- (1) Agricultural Marketing Service
- (2) Economic Research Service
- (3) Federal Crop Insurance Corporation
- (4) Food and Nutrition Service
- (5) Food Safety and Inspection Service
- (6) Foreign Agricultural Service
- (7) National Agricultural Library
- (8) National Agricultural Statistics Service

(9) The following general offices of the Department: Office of the Chief Economist, Office of the Chief Financial Officer, Office of the Chief Information Officer, Office of the General Counsel,

Office of the Inspector General, National Appeals Division, Office of Budget and Program Analysis, Office of Communications, Office of Partnerships and Public Engagement, Office of Tribal Relations, and Office of Small and Disadvantaged Business Utilization.

(b) The categories in paragraphs (c) and (d) of this section are for activities which have been determined by USDA to not have a reasonably foreseeable significant impact on the human environment and are excluded from the preparation of an environmental assessment or environmental impact statement. Categories have been assigned unique numbers for ease of reference. The following acronyms at the end of the number sequence indicate the USDA subcomponent that originally promulgated the category. These acronyms are used in the numbering sequence for USDA subcomponent tracking and continuity purposes and do not imply that the subcomponent indicated is the only USDA subcomponent that may use the category:

- (1) OSEC (Office of the Secretary)
- (2) APHIS (Animal and Plant Health Inspection Service)
- (3) FSA (Farm Service Agency)
- (4) NRCS (Natural Resources Conservation Service)
- (5) RD (Rural Development)
- (6) USFS (U.S. Forest Service)
- (c) The following categorical exclusions do not require NEPA documentation.

(1) (USDA–01c–OSEC) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions. Examples include, but are not limited to:

(i) Issuing minor technical corrections to regulations, handbooks, and internal guidance, as well as amendments to them;

(ii) Personnel actions, reduction-in-force, or employee transfers; and

(iii) Procurement actions for goods and services conducted in accordance with applicable laws, regulations, and executive orders.

(2) (USDA–02c–OSEC) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds.

(3) (USDA–03c–OSEC) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity. Examples include, but are not limited to:

(i) Identifications, inspections, surveys, sampling, testing, and monitoring that does not cause physical alteration of the environment;

(ii) Laboratory research involving the evaluation and use of chemicals in a manner not specifically listed on the product label pursuant to applicable Federal authorizations;

(iii) Research evaluating wildlife management products or tools, such as animal repellents, frightening devices, or fencing, that is carried out in a manner and area designed to eliminate the potential for harmful environmental effects and in accordance with applicable regulatory requirements;

(iv) Research operations conducted within any laboratory, greenhouse or other contained facility where research practices and safeguards prevent environment impacts, such as the release of hazardous materials into the environment;

(v) Testing outside of the laboratory, such as in small, isolated field plots, which involves the routine use of familiar chemicals or biological materials and does not involve the use of control agents requiring containment or a special license or a permit from a regulatory agency.

(vi) Soil surveys;

(vii) Snow surveys and water supply forecasts;

(viii) Plant materials for conservation;

(ix) Inventory and monitoring;

(x) River Basin Studies under section 6 of Pub. L. 83–566, as amended.

(4) (USDA–04c–OSEC) Educational and informational programs and activities.

(5) (USDA–05c–OSEC) Civil and criminal law enforcement and investigative activities.

(6) (USDA–06c–OSEC) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counselling and representation.

(7) (USDA–07c–OSEC) Activities related to trade representation and market development activities abroad.

(8) (USDA–08c–APHIS) Routine measures, such as, seizures, quarantines, removals, sanitizing, inoculations, and control employed by agency programs to pursue their missions and functions.

(i) Such measures may include the use—according to any label instructions or other lawful requirements and consistent with standard, published program practices and precautions—of chemicals, pesticides, or other potentially hazardous or harmful substances, materials, and target-specific devices or remedies, provided that such use meets all of the following

criteria (insofar as they may pertain to a particular action):

(A) The use is localized or contained in areas where humans are not likely to be exposed, and is limited in terms of quantity, *i.e.*, individualized dosages and remedies;

(B) The use will not cause contaminants to enter water bodies, including wetlands;

(C) The use does not adversely affect any federally protected species or critical habitat; and

(D) The use does not cause bioaccumulation.

(ii) Examples of routine measures include, but are not limited to:

(A) Inoculation or treatment of discrete herds of livestock or wildlife undertaken in contained areas (such as a barn or corral, a zoo, an exhibition, or an aviary);

(B) Use of vaccinations or inoculations including new vaccines (*e.g.*, genetically engineered vaccines) and applications of existing vaccines to new species provided that the project is conducted in a controlled and limited manner, and the impacts of the vaccine can be predicted; and

(C) Isolated (*e.g.*, along a highway) weed control efforts.

(9) (USDA–09c–APHIS) Research and development activities limited in magnitude, frequency, and scope that occur in laboratories, facilities, pens, or field sites. Examples include, but are not limited to:

(i) Vaccination trials that occur on groups of animals in areas designed to limit interaction with similar animals, or include other controls needed to mitigate potential risk.

(ii) The development and/or production (including formulation, packaging or repackaging, movement, and distribution) of articles such as program materials, devices, reagents, and biologics that were approved and/or licensed in accordance with existing regulations, or that are for evaluation in confined animal, plant, or insect populations under conditions that prevent exposure to the general population.

(iii) Development, production, and release of sterile insects.

(10) (USDA–10c–APHIS) Licensing and permitting.

(i) Issuance of a license, permit, authorization, or approval to ship or field test previously unlicensed veterinary biologics, including veterinary biologics containing genetically engineered organisms (such as vector-based vaccines and nucleic acid-based vaccines);

(ii) Issuance of a license, permit, authorization, or approval for movement

or uses of pure cultures of organisms (relatively free of extraneous micro-organisms and extraneous material) that are not strains of quarantine concern and occur, or are likely to occur, in a State's environment;

(iii) Permitting for confined field releases of genetically engineered organisms and products; or

(iv) Permitting of:

(A) Importation of nonindigenous species into containment facilities,

(B) Interstate movement of nonindigenous species between containment facilities, or

(C) Releases into a State's environment of pure cultures of organisms that are either native or are established introductions.

(11) (USDA-11c-APHIS) Minor renovation, improvement, and maintenance of facilities. Examples include, but are not limited to:

(i) Renovation of existing laboratories and other facilities.

(ii) Functional replacement of parts and equipment.

(iii) Minor additions to existing facilities.

(iv) Minor excavations of land and repairs to properties.

(12) (USDA-12c-FSA) Minor management, construction, or repair actions.

(i) Minor construction, such as a small addition;

(ii) Drain tile replacement;

(iii) Erosion control measures;

(iv) Grading, leveling, shaping, and filling;

(v) Grassed waterway establishment;

(vi) Hillside ditches;

(vii) Land-clearing operations of no more than 15 acres, provided any amount of land involved in tree harvesting (without stump removal) is to be conducted on a sustainable basis and according to a Federal, State, Tribal, or other governmental unit approved forestry management plan;

(viii) Nutrient management;

(ix) Permanent establishment of a water source for wildlife (not livestock);

(x) Restoring and replacing property;

(xi) Soil and water development;

(xii) Spring development;

(xiii) Trough or tank installation; and

(xiv) Water harvesting catchment.

(13) (USDA-13c-FSA) Repair, improvement, or minor modification actions.

(i) Existing fence repair;

(ii) Improvement or repair of farm-related structures under 50 years of age; and

(iii) Minor amendments or revisions to previously approved projects, provided such proposed actions do not substantively alter the purpose,

operation, location, impacts, or design of the project as originally approved.

(14) (USDA-14c-FSA) Planting actions.

(i) Bareland planting or planting without site preparation;

(ii) Bedding site establishment for wildlife;

(iii) Chiseling and subsoiling;

(iv) Clean tilling firebreaks;

(v) Conservation crop rotation;

(vi) Contour farming;

(vii) Contour grass strip establishment;

(viii) Cover crop and green manure crop planting;

(ix) Critical area planting;

(x) Firebreak installation;

(xi) Grass, forbs, or legume planting;

(xii) Heavy use area protection;

(xiii) Installation and maintenance of field borders or field strips;

(xiv) Pasture, range, and hayland

planting;

(xv) Seeding of shrubs;

(xvi) Seedling shrub planting;

(xvii) Site preparation;

(xviii) Strip cropping;

(xix) Wildlife food plot planting; and

(xx) Windbreak and shelterbelt establishment.

(15) (USDA-15c-FSA) Management actions.

(i) Forage harvest management;

(ii) Integrated crop management;

(iii) Mulching, including plastic mulch;

(iv) Netting for hard woods;

(v) Obstruction removal;

(vi) Pest management (consistent with all labelling and use requirements);

(vii) Plant grafting;

(viii) Plugging artesian wells;

(ix) Residue management including seasonal management;

(x) Roof runoff management;

(xi) Thinning and pruning of plants;

(xii) Toxic salt reduction; and

(xiii) Water spreading.

(16) (USDA-16c-FSA) Miscellaneous FSA actions.

(i) Fence installation and replacement;

(ii) Fish stream improvement;

(iii) Grazing land mechanical treatment; and

(iv) Inventory property disposal or lease without protective easements or covenants;

(v) Conservation easement purchases with no construction planned;

(vi) Emergency program proposed actions (including Emergency Conservation Program and Emergency Forest Restoration Program) that have a total cost share of less than \$5,000;

(vii) Financial assistance to supplement income, manage the supply of agricultural commodities, or

influence the cost and supply of such commodities or programs of a similar nature or intent (that is, price support programs);

(viii) Individual farm participation in Farm Service Agency programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation;

(ix) Safety net programs without ground disturbance;

(x) Site characterization, environmental testing, and monitoring where no significant alteration of existing ambient conditions would occur, including air, surface water, groundwater, wind, soil, or rock core sampling; installation of monitoring wells; installation of small scale air, water, or weather monitoring equipment;

(xi) Stand analysis for forest management planning; and

(xii) Tree protection including plastic tubes.

(17) (USDA-17c-RD) A guarantee provided to the Federal Financing Bank pursuant to Section 313A(a) of the Rural Electrification Act of 1936 for the purpose of:

(i) Refinancing existing debt instruments of a lender organized on a not-for-profit basis; or

(ii) Prepaying outstanding notes or bonds made to or guaranteed by the Agency.

(18) (USDA-18c-RD) Financial assistance for minor construction proposals. The CEs in this section are for proposals for financial assistance that involve no or minimal alterations in the physical environment and typically occur on previously disturbed land. These actions normally do not require an applicant to submit environmental documentation with the application. However, based on the review of the project description, the Agency may request additional environmental documentation from the applicant at any time, specifically if the Agency determines that extraordinary circumstances may exist. In accordance with section 106 of the National Historic Preservation Act (54 U.S.C. 300101-306108) and its implementing regulations under 36 CFR 800.3(a), the agency has determined that the actions in this section are undertakings, and in accordance with 36 CFR 800.3(a)(1) has identified those undertakings for which no further review under 36 CFR part 800 is required because they have no potential to cause effects to historic properties. In accordance with section 7 of the Endangered Species Act (16 U.S.C. 1531-1544) and its implementing regulations at 50 CFR part 402, the agency has determined that the actions

in this section are actions for purposes of the Endangered Species Act, and in accordance with 50 CFR 402.06 has identified those actions for which no further review under 50 CFR part 402 is required because they will have no effect to listed threatened and endangered species.

(i) Minor amendments or revisions to previously approved projects provided such activities do not alter the purpose, operation, geographic scope, or design of the project as originally approved;

(ii) Repair, upgrade, or replacement of equipment in existing structures for such purposes as improving habitability, energy efficiency (including heat rate efficiency), replacement or conversion to enable use of renewable fuels, pollution prevention, or pollution control;

(iii) Any internal modification or minimal external modification, restoration, renovation, maintenance, and replacement in-kind to an existing facility or structure;

(iv) Construction of or substantial improvement to a single-family dwelling, or a Rural Housing Site Loan project or multi-family housing project serving up to four families and affecting less than 10 acres of land;

(v) Siting, construction, and operation of new or additional water supply wells for residential, farm, or livestock use;

(vi) Replacement of existing water and sewer lines within the existing right-of-way and as long as the size of pipe is either no larger than the inner diameter of the existing pipe or is an increased diameter as required by Federal or state requirements. If a larger pipe size is required, applicants must provide a copy of written administrative requirements mandating a minimum pipe diameter from the regulatory agency with jurisdiction;

(vii) Modifications of an existing water supply well to restore production in existing commercial well fields, if there would be no drawdown other than in the immediate vicinity of the pumping well, no resulting long-term decline of the water table, and no degradation of the aquifer from the replacement well;

(viii) Burying new facilities for communication purposes in previously developed, existing rights-of-way and in areas already in or committed to urbanized development or rural settlements whether incorporated or unincorporated that are characterized by high human densities and within contiguous, highly disturbed environments with human-built features. Covered actions include associated vaults and pulling and tensioning sites outside rights-of-way in

nearby previously disturbed or developed land;

(ix) Changes to electric transmission lines that involve pole replacement or structural components only where either the same or substantially equivalent support structures at the approximate existing support structure locations are used;

(x) Phase or voltage conversions, reconductoring, upgrading, or rebuilding of existing electric distribution lines that would not affect the environment beyond the previously developed, existing rights-of-way. Includes pole replacements and overhead-to-underground conversions;

(xi) Collocation of telecommunications equipment on existing infrastructure and deployment of distributed antenna systems and small cell networks provided the latter technologies are not attached to and will not cause adverse effects to historic properties;

(xii) Siting, construction, and operation of small, ground source heat pump systems that would be located on previously developed land;

(xiii) Siting, construction, and operation of small solar electric projects or solar thermal projects to be installed on or adjacent to an existing structure and that would not affect the environment beyond the previously developed facility area and are not attached to and will not cause adverse effects to historic properties;

(xiv) Siting, construction, and operation of small biomass projects, such as animal waste anaerobic digesters or gasifiers, that would use feedstock produced on site (such as a farm where the site has been previously disturbed) and supply gas or electricity for the site's own energy needs with no or only incidental export of energy;

(xv) Construction of small standby electric generating facilities with a rating of one average megawatt (MW) or less, and associated facilities, for the purpose of providing emergency power for or startup of an existing facility;

(xvi) Additions or modifications to electric transmission facilities that would not affect the environment beyond the previously developed facility area including, but not limited to, switchyard rock, grounding upgrades, secondary containment projects, paving projects, seismic upgrading, tower modifications, changing insulators, and replacement of poles, circuit breakers, conductors, transformers, and crossarms; and

(xvii) Safety, environmental, or energy efficiency (including heat rate efficiency) improvements within an existing electric generation facility,

including addition, replacement, or upgrade of facility components (such as precipitator, baghouse, or scrubber installations), that do not result in a change to the design capacity or function of the facility and do not result in an increase in pollutant emissions, effluent discharges, or waste products.

(19) (USDA–19c–USFS) Orders issued pursuant to 36 CFR part 261: Prohibitions to provide short-term resource protection or to protect public health and safety. Examples include, but are not limited to:

(i) Closing a road to protect bighorn sheep during lambing season, and

(ii) Closing an area during a period of extreme fire danger.

(20) (USDA–20c–USFS) Rules, regulations, or policies to establish service-wide administrative procedures, program processes, or instructions. Examples include, but are not limited to:

(i) Adjusting special use or recreation fees using an existing formula;

(ii) Proposing a technical or scientific method or procedure for screening effects of emissions on air quality related values in Class I wildernesses;

(iii) Proposing a policy to defer payments on certain permits or contracts to reduce the risk of default;

(iv) Proposing changes in contract terms and conditions or terms and conditions of special use authorizations;

(v) Establishing a service-wide process for responding to offers to exchange land and for agreeing on land values; and

(vi) Establishing procedures for amending or revising forest land and resource management plans.

(21) (USDA–21c–USFS) Repair and maintenance of administrative sites. Examples include, but are not limited to:

(i) Mowing lawns at a district office;

(ii) Replacing a roof or storage shed;

(iii) Painting a building; and

(iv) Applying registered pesticides for rodent or vegetation control.

(22) (USDA–22c–USFS) Repair and maintenance of roads, trails, and landline boundaries. Examples include, but are not limited to:

(i) Authorizing a user to grade, resurface, and clean the culverts of an established National Forest System (NFS) road;

(ii) Grading a road and clearing the roadside of brush without the use of herbicides;

(iii) Resurfacing a road to its original condition;

(iv) Pruning vegetation and cleaning culverts along a trail and grooming the surface of the trail; and

(v) Surveying, painting, and posting landline boundaries.

(23) (USDA–23c–USFS) Repair and maintenance of recreation sites and facilities. Examples include, but are not limited to:

- (i) Applying registered herbicides to control poison ivy on infested sites in a campground;
- (ii) Applying registered insecticides by compressed air sprayer to control insects at a recreation site complex;
- (iii) Repaving a parking lot; and
- (iv) Applying registered pesticides for rodent or vegetation control.

(24) (USDA–24c–USFS) Acquisition of land or interest in land. Examples include, but are not limited to:

- (i) Accepting the donation of lands or interests in land to the NFS, and
- (ii) Purchasing fee, conservation easement, reserved interest deed, or other interests in lands.

(25) (USDA–25c–USFS) Sale or exchange of land or interest in land and resources where resulting land uses remain essentially the same. Examples include, but are not limited to:

- (i) Selling or exchanging land pursuant to the Small Tracts Act;
- (ii) Exchanging NFS lands or interests with a State agency, local government, or other non-Federal party (individual or organization) with similar resource management objectives and practices;
- (iii) Authorizing the Bureau of Land Management to issue leases on producing wells when mineral rights revert to the United States from private ownership and there is no change in activity; and
- (iv) Exchange of administrative sites involving other than NFS lands.

(26) (USDA–26c–USFS) Approval, modification, or continuation of minor, short-term (1 year or less) special uses of NFS lands. Examples include, but are not limited to:

- (i) Approving, on an annual basis, the intermittent use and occupancy by a State-licensed outfitter or guide;
- (ii) Approving the use of NFS land for apiaries; and
- (iii) Approving the gathering of forest products for personal use.

(27) (USDA–27c–USFS) Issuance of a new permit for up to the maximum tenure allowable under the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) for an existing ski area when such issuance is a purely ministerial action to account for administrative changes, such as a change in ownership of ski area improvements, expiration of the current permit, or a change in the statutory authority applicable to the current permit. Examples include, but are not limited to:

- (i) Issuing a permit to a new owner of ski area improvements within an

existing ski area with no changes to the master development plan, including no changes to the facilities or activities for that ski area;

- (ii) Upon expiration of a ski area permit, issuing a new permit to the holder of the previous permit where the holder is not requesting any changes to the master development plan, including changes to the facilities or activities; and

(iii) Issuing a new permit under the National Forest Ski Area Permit Act of 1986 to the holder of a permit issued under the Term Permit and Organic Acts, where there are no changes in the type or scope of activities authorized and no other changes in the master development plan.

(28) (USDA–28c–USFS) Issuance of a new special use authorization to replace an existing or expired special use authorization, when such issuance is to account only for administrative changes, such as a change in ownership of authorized improvements or expiration of the current authorization, and where there are no changes to the authorized facilities or increases in the scope or magnitude of authorized activities. The applicant or holder must be in compliance with all the terms and conditions of the existing or expired special use authorization. Subject to the foregoing conditions, examples include, but are not limited to:

- (i) Issuing a new authorization to replace a powerline facility authorization that is at the end of its term;
- (ii) Issuing a new permit to replace an expired permit for a road that continues to be used as access to non-NFS lands; and
- (iii) Converting a transitional priority use outfitting and guiding permit to a priority use outfitting and guiding permit.

(29) (USDA–29c–USFS) Issuance of a new authorization or amendment of an existing authorization for recreation special uses that occur on existing roads or trails, in existing facilities, in existing recreation sites, or in areas where such activities are allowed. Subject to the foregoing condition, examples include, but are not limited to:

- (i) Issuance of an outfitting and guiding permit for mountain biking on NFS trails that are not closed to mountain biking;
- (ii) Issuance of a permit to host a competitive motorcycle event;
- (iii) Issuance of an outfitting and guiding permit for backcountry skiing;
- (iv) Issuance of a permit for a one-time use of existing facilities for other recreational events; and

(v) Issuance of a campground concession permit for an existing campground that has previously been operated by the Forest Service.

(30) (USDA–30c–FSA) FSA Loan Actions

- (i) Closing cost payments;
 - (ii) Commodity loans;
 - (iii) Debt set asides;
 - (iv) Deferral of loan payments;
 - (v) Youth loans;
 - (vi) Loan consolidation;
 - (vii) Loans for annual operating expenses, except livestock;
 - (viii) Loans for equipment;
 - (ix) Loans for family living expenses;
 - (x) Loan subordination, with no or minimal construction below the depth of previous tillage or ground disturbance, and no change in operations, including, but not limited to, an increase in animal numbers to exceed the current CAFO designation (as defined by the U.S. Environmental Protection Agency in 40 CFR 122.23);
 - (xi) Loans to pay for labor costs;
 - (xii) Loan (debt) transfers and assumptions with no new ground disturbance;
 - (xiii) Partial or complete release of loan collateral;
 - (xiv) Re-amortization of loans;
 - (xv) Refinancing of debt;
 - (xvi) Rescheduling loans;
 - (xvii) Restructuring of loans; and
 - (xviii) Writing down of debt.
- (xiv) Farm storage and drying facility loans for added capacity;
- (xx) Loans for livestock purchases;
 - (xxi) Release of loan security for forestry purposes;
 - (xxii) Reorganizing farm operations; and

(xxiii) Replacement building loans;

- (xxiv) Loans and loan subordination with construction, demolition, or ground disturbance planned;
- (xxv) Real estate purchase loans with new ground disturbance planned; and
- (xxvi) Term operating loans with construction or demolition planned;

(31) (USDA–31c–RD) The promulgation of rules or formal notices for policies or programs that are administrative or financial procedures for implementing Agency assistance activities.

(32) (USDA–32c–RD) Agency proposals for legislation that have no potential for significant environmental impacts because they would allow for no or minimal construction or change in operations.

(d) The following categorical exclusions require NEPA documentation, which will be completed as set forth at § 1b.3(g).

(1) (USDA–01d–FSA) Construction or ground disturbance actions.

(i) Bridges;

(ii) Chiseling and subsoiling in areas not previously tilled;

(iii) Construction of a new farm storage facility;

(iv) Dams;

(v) Dikes and levees;

(vi) Diversions;

(vii) Drop spillways;

(viii) Dugouts;

(ix) Excavation;

(x) Grade stabilization structures;

(xi) Grading, leveling, shaping and filling in areas or to depths not previously disturbed;

(xii) Installation of structures designed to regulate water flow such as pipes, flashboard risers, gates, chutes, and outlets;

(xiii) Irrigation systems;

(xiv) Land smoothing;

(xv) Line waterways or outlets;

(xvi) Lining;

(xvii) Livestock crossing facilities;

(xviii) Pesticide containment facility;

(xix) Pipe drop;

(xx) Pipeline for watering facility;

(xxi) Ponds, including sealing and lining;

(xxii) Precision land farming with ground disturbance;

(xxiii) Riparian buffer establishment;

(xxiv) Roads, including access roads;

(xxv) Rock barriers;

(xxvi) Rock filled infiltration trenches;

(xxvii) Sediment basin;

(xxviii) Sediment structures;

(xxix) Site preparation for planting or seeding in areas not previously tilled;

(xxx) Soil and water conservation structures;

(xxxi) Stream bank and shoreline protection;

(xxxii) Structures for water control;

(xxxiii) Subsurface drains;

(xxxiv) Surface roughening;

(xxxv) Terracing;

(xxxvi) Underground outlets;

(xxxvii) Watering tank or trough installation, if in areas not previously disturbed;

(xxxviii) Wells; and

(xxxix) Wetland restoration.

(2) (USDA–02d–FSA) Management and planting type actions.

(i) Establishing or maintaining wildlife plots in areas not previously tilled or disturbed;

(ii) Prescribed burning;

(iii) Tree planting when trees have root balls of one gallon container size or larger; and

(iv) Wildlife upland habitat management.

(3) (USDA–03d–NRCS) Planting appropriate herbaceous and woody vegetation, which does not include noxious weeds or invasive plants, on disturbed sites to restore and maintain

the sites ecological functions and services.

(4) (USDA–04d–NRCS) Removing dikes and associated appurtenances (such as culverts, pipes, valves, gates, and fencing) to allow waters to access floodplains to the extent that existed prior to the installation of such dikes and associated appurtenances.

(5) (USDA–05d–NRCS) Plugging and filling excavated drainage ditches to allow hydrologic conditions to return to pre-drainage conditions to the extent practicable.

(6) (USDA–06d–NRCS) Replacing and repairing existing culverts, grade stabilization, and water control structures and other small structures that were damaged by natural disasters where there is no new depth required and only minimal dredging, excavation, or placement of fill is required.

(7) (USDA–07d–NRCS) Restoring the natural topographic features of agricultural fields that were altered by farming and ranching activities for the purpose of restoring ecological processes.

(8) (USDA–08d–NRCS) Removing or relocating residential, commercial, and other public and private buildings and associated structures constructed in the 100-year floodplain or within the breach inundation area of an existing dam or other flood control structure in order to restore natural hydrologic conditions of inundation or saturation, vegetation, or reduce hazards posed to public safety.

(9) (USDA–09d–NRCS) Removing storm debris and sediment following a natural disaster where there is a continuing and eminent threat to public health or safety, property, and natural and cultural resources and removal is necessary to restore lands to pre-disaster conditions to the extent practicable. Excavation will not exceed the pre-disaster condition.

(10) (USDA–10d–NRCS) Stabilizing stream banks and associated structures to reduce erosion through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable, *e.g.*, utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, rip-rap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).

(11) (USDA–11d–NRCS) Repairing or maintenance of existing small structures or improvements (including structures and improvements utilized to restore

disturbed or altered wetland, riparian, in stream, or native habitat conditions). Examples of such activities include the repair or stabilization of existing stream crossings for livestock or human passage, levees, culverts, berms, dikes, and associated appurtenances.

(12) (USDA–12d–NRCS) Constructing small structures or improvements for the restoration of wetland, riparian, in stream, or native habitats. Examples of activities include installation of fences and construction of small berms, dikes, and associated water control structures.

(13) (USDA–13d–NRCS) Restoring an ecosystem, fish and wildlife habitat, biotic community, or population of living resources to a determinable pre-impact condition.

(14) (USDA–14d–NRCS) Repairing or maintenance of existing constructed fish passageways, such as fish ladders or spawning areas impacted by natural disasters or human alteration.

(15) (USDA–15d–NRCS) Repairing, maintaining, or installing fish screens to existing structures.

(16) (USDA–16d–NRCS) Repairing or maintaining principal spillways and appurtenances associated with existing serviceable dams, originally constructed to NRCS standards, in order to meet current safety standards. Work will be confined to the construction footprint of the dam, and no major change in reservoir or downstream operations will result.

(17) (USDA–17d–NRCS) Repairing or improving (deepening/widening/armoring) existing auxiliary/emergency spillways associated with dams, originally constructed to NRCS standards, in order to meet current safety standards. Work will be confined to the construction footprint of the dam or abutment areas, and no major change in reservoir or downstream operation will result.

(18) (USDA–18d–NRCS) Repairing embankment slope failures on structures or reshaping the embankment, originally built to NRCS standards, where the work is confined to the embankment or abutment areas.

(19) (USDA–19d–NRCS) Increasing the freeboard (which is the height from the auxiliary (emergency) spillway crest to the top of embankment) of an existing dam or dike, originally built to NRCS standards, by raising the top elevation in order to meet current safety and performance standards. The purpose of the safety standard and associated work is to ensure that during extreme rainfall events, flows are confined to the auxiliary/emergency spillway so that the existing structure is not overtopped which may result in a catastrophic failure. Elevating the top of the dam will

not result in an increase to lake or stream levels. Work will be confined to the construction footprint of the dam and abutment areas, and no major change in reservoir operations will result. Examples of work may include the addition of fill material such as earth or gravel or placement of parapet walls.

(20) (USDA–20d–NRCS) Modifying existing residential, commercial, and other public and private buildings to prevent flood damages, such as elevating structures or sealing basements to comply with current State safety standards and Federal performance standards.

(21) (USDA–21d–NRCS) Undertaking minor agricultural practices to maintain and restore ecological conditions in floodplains after a natural disaster or on lands impacted by human alteration. Examples of these practices include: mowing, haying, grazing, fencing, off-stream watering facilities, and invasive species control which are undertaken when fish and wildlife are not breeding, nesting, rearing young, or during other sensitive timeframes.

(22) (USDA–22d–NRCS) Implementing soil control measures on existing agricultural lands, such as grade stabilization structures (pipe drops), sediment basins, terraces, grassed waterways, filter strips, riparian forest buffer, and critical area planting.

(23) (USDA–23d–NRCS) Implementing water conservation activities on existing agricultural lands, such as minor irrigation land leveling, irrigation water conveyance (pipelines), irrigation water control structures, and various management practices.

(24) The CEs in this section are for proposals for financial assistance that require an applicant to submit environmental documentation with their application to facilitate agency determination of extraordinary circumstances. At a minimum, the environmental documentation will include a complete description of all components of the applicant's proposal and any connected actions, including its specific location on detailed site plans as well as location maps equivalent to a U.S. Geological Survey (USGS) quadrangle map; and information from authoritative sources acceptable to the agency confirming the presence or absence of sensitive environmental resources in the area that could be affected by the applicant's proposal. The environmental documentation submitted must be accurate, complete, and capable of verification. The agency may request additional information as needed to make an environmental determination. Failure to submit the

required environmental documentation will postpone further consideration of the applicant's proposal until the environmental documentation is submitted, or the agency may deny the request for financial assistance. The agency will review the environmental documentation and determine if extraordinary circumstances exist. The agency's review may determine that classification as an environmental assessment or an environmental impact statement is more appropriate than a categorical exclusion classification.

(i) (USDA–24–1d–RD) Small-scale site-specific development. The following CEs apply to proposals where site development activities (including construction, expansion, repair, rehabilitation, or other improvements) for rural development purposes would impact not more than 10 acres of real property and would not cause a substantial increase in traffic. These CEs are identified in subparagraphs (A) through (J) of this subparagraph (i). This paragraph does not apply to new industrial proposals (such as ethanol and biodiesel production facilities).

(A) Multi-family housing and Rural Housing Site Loans.

(B) Business development.

(C) Community facilities such as municipal buildings, libraries, security services, fire protection, schools, and health and recreation facilities.

(D) Infrastructure to support utility systems such as water or wastewater facilities; headquarters, maintenance, equipment storage, or microwave facilities; and energy management systems.

(E) Installation of new, commercial-scale water supply wells and associated pipelines or water storage facilities that are required by a regulatory authority or standard engineering practice as a backup to existing production well(s) or as reserve for fire protection.

(F) Construction of telecommunications towers and associated facilities, if the towers and associated facilities are 450 feet or less in height and would not be in or visible from an area of documented scenic value.

(G) Repair, rehabilitation, or restoration of water control, flood control, or water impoundment facilities, such as dams, dikes, levees, detention reservoirs, and drainage ditches, with minimal change in use, size, capacity, purpose, operation, location, or design from the original facility.

(H) Installation or enlargement of irrigation facilities on an applicant's land, including storage reservoirs, diversion dams, wells, pumping plants,

canals, pipelines, and sprinklers designed to irrigate less than 80 acres.

(I) Replacement or restoration of irrigation facilities, including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers, with no or minimal change in use, size, capacity, or location from the original facility(s).

(J) Vegetative biomass harvesting operations of no more than 15 acres, provided any amount of land involved in harvesting is to be conducted managed on a sustainable basis and according to a Federal, state, or other governmental unit approved management plan.

(ii) (USDA–24–2d–RD) Financial assistance for small-scale corridor development.

(A) Construction or repair of roads, streets, and sidewalks, including related structures such as curbs, gutters, storm drains, and bridges, in an existing right-of-way with minimal change in use, size, capacity, purpose, or location from the original infrastructure;

(B) Improvement and expansion of existing water, wastewater, and gas utility systems: within 20 miles of currently served areas irrespective of the percent of increase in new capacity;

(C) Replacement of utility lines where road reconstruction undertaken by non-Agency applicants requires the relocation of lines either within or immediately adjacent to the new road easement or right-of-way; and

(D) Installation of new linear telecommunications facilities and related equipment and infrastructure.

(iii) (USDA–24–3d–RD) Financial assistance for small-scale energy proposals.

(A) Construction of electric power substations (including switching stations and support facilities) or modification of existing substations, switchyards, and support facilities;

(B) Construction of electric power lines and associated facilities designed for or capable of operation at a nominal voltage of either:

(1) Less than 69 kilovolts (kV);

(2) Less than 230 kV if no more than 25 miles of line are involved; or

(3) 230 kV or greater involving no more than three miles of line, but not for the integration of major new generation resources into a bulk transmission system;

(C) Reconstruction (upgrading or rebuilding) or minor relocation of existing electric transmission lines (230 kV or less) 25 miles in length or less to enhance environmental and land use values or to improve reliability or access. Such actions include relocations to avoid right-of-way encroachments,

resolve conflict with property development, accommodate road/highway construction, allow for the construction of facilities such as canals and pipelines, or reduce existing impacts on environmentally sensitive areas;

(D) Repowering or uprating modifications or expansion of an existing unit(s) up to a rating of 50 average MW at electric generating facilities in order to maintain or improve the efficiency, capacity, or energy output of the facility. Any air emissions from such activities must be within the limits of an existing air permit;

(E) Installation of new generating units or replacement of existing generating units at an existing hydroelectric facility or dam which results in no change in the normal maximum surface area or normal maximum surface elevation of the existing impoundment. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(F) Installation of a heat recovery steam generator and steam turbine with a rating of 200 average MW or less on an existing electric generation site for the purpose of combined cycle operations. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(G) Construction of small electric generating facilities (except geothermal and solar electric projects), including those fueled with wind or biomass, with a rating of 10 average MW or less. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(H) Siting, construction, and operation of small biomass projects (except small electric generating facilities projects fueled with biomass) producing not more than 3 million gallons of liquid fuel or 300,000 million British thermal units annually, developed on up to 10 acres of land;

(I) Geothermal electric power projects or geothermal heating or cooling projects developed on up to 10 acres of land and including installation of one geothermal well for the production of geothermal fluids for direct use application (such as space or water heating/cooling) or for power generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(J) Solar electric projects or solar thermal projects developed on up to 10 acres of land including all supporting facilities and new related electric transmission lines 10 miles in length or less;

(K) Distributed resources of any capacity located at or adjacent to an existing landfill site or wastewater treatment facility that is powered by refuse-derived fuel. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(L) Small conduit hydroelectric facilities having a total installed capacity of not more than 5 average MW using an existing conduit such as an irrigation ditch or a pipe into which a turbine would be placed for the purpose of electric generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included; and

(M) Modifications or enhancements to existing facilities or structures that would not substantially change the footprint or function of the facility or structure and that are undertaken for the purpose of improving energy efficiency (including heat rate efficiency), promoting pollution prevention or control, safety, reliability, or security. This includes, but is not limited to, retrofitting existing facilities to produce biofuels and replacing fossil fuels used to produce heat or power in biorefineries with renewable biomass. This also includes installation of fuel blender pumps and associated changes within an existing fuel facility.

(25) (USDA–25d–RD) Repairs made because of an emergency situation to return to service damaged facilities of an applicant's utility system or other actions necessary to preserve life and control the immediate impacts of the emergency.

(26) (USDA–26d–USFS) Construction and reconstruction of trails. Examples include, but are not limited to:

- (i) Constructing or reconstructing a trail to a scenic overlook, and
- (ii) Reconstructing an existing trail to allow use by handicapped individuals.

(27) (USDA–27d–USFS) Additional construction or reconstruction of existing telephone or utility lines in a designated corridor. Examples include, but are not limited to:

- (i) Replacing an underground cable trunk and adding additional phone lines, and
- (ii) Reconstructing a power line by replacing poles and wires.

(28) (USDA–28d–USFS) Approval, modification, or continuation of special uses that require less than 20 acres of NFS lands. Subject to the preceding condition, examples include but are not limited to:

- (i) Approving the construction of a meteorological sampling site;
- (ii) Approving the use of land for a one-time group event;

(iii) Approving the construction of temporary facilities for filming of staged or natural events or studies of natural or cultural history;

(iv) Approving the use of land for a utility corridor that crosses a national forest;

(v) Approving the installation of a driveway or other facilities incidental to use of a private residence; and

(vi) Approving new or additional communication facilities, associated improvements, or communication uses at a site already identified as available for these purposes.

(29) (USDA–29d–USFS) Regeneration of an area to native tree species, including site preparation that does not involve the use of herbicides or result in vegetation type conversion. Examples include, but are not limited to:

(i) Planting seedlings of superior trees in a progeny test site to evaluate genetic worth, and

(ii) Planting trees or mechanical seed dispersal of native tree species following a fire, flood, or landslide.

(30) (USDA–30d–USFS) Timber stand and/or wildlife habitat improvement activities that do not include the use of herbicides or do not require more than 1 mile of low standard road construction. Examples include, but are not limited to:

(i) Girdling trees to create snags;

(ii) Thinning or brush control to improve growth or to reduce fire hazard including the opening of an existing road to a dense timber stand;

(iii) Prescribed burning to control understory hardwoods in stands of southern pine; and

(iv) Prescribed burning to reduce natural fuel build-up and improve plant vigor.

(31) (USDA–31d–USFS) Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices. Examples include, but are not limited to:

(i) Reconstructing a gabion with stone from a nearby source;

(ii) Adding brush to lake fish beds; and

(iii) Cleaning and resurfacing a fish ladder at a hydroelectric dam.

(32) (USDA–32d–USFS) Short-term (1 year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than 1 mile of low standard road, or use and minor repair of existing roads. Examples include, but are not limited to:

(i) Authorizing geophysical investigations which use existing roads

that may require incidental repair to reach sites for drilling core holes, temperature gradient holes, or seismic shot holes;

(ii) Gathering geophysical data using shot hole, vibroseis, or surface charge methods;

(iii) Trenching to obtain evidence of mineralization;

(iv) Clearing vegetation for sight paths or from areas used for investigation or support facilities;

(v) Redesigning or rearranging surface facilities within an approved site;

(vi) Approving interim and final site restoration measures; and

(vii) Approving a plan for exploration which authorizes repair of an existing road and the construction of 1–3 mile of temporary road; clearing vegetation from an acre of land for trenches, drill pads, or support facilities.

(33) (USDA–33d–USFS)

Implementation or modification of minor management practices to improve allotment condition or animal distribution. Examples include, but are not limited to:

(i) Rebuilding a fence to improve animal distribution;

(ii) Adding a stock watering facility to an existing water line; and

(iii) Spot seeding native species of grass or applying lime to maintain forage condition.

(34) (USDA–34d–USFS) Post-fire rehabilitation activities, not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds), to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire. Such activities:

(i) Shall be conducted consistent with Agency and departmental procedures and applicable land and resource management plans;

(ii) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and

(iii) Shall be completed within 3 years following a wildland fire.

(35) (USDA–35d–USFS) Harvest of live trees not to exceed 70 acres, requiring no more than ½ mile of temporary road construction. Do not use this category for even-aged regeneration harvest or vegetation type conversion. The proposed action may include incidental removal of trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Removal of individual trees for sawlogs, specialty products, or fuelwood, and

(ii) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.

(36) (USDA–36d–USFS) Salvage of dead and/or dying trees not to exceed 250 acres, requiring no more than ½ mile of temporary road construction. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Harvest of a portion of a stand damaged by a wind or ice event and construction of a short temporary road to access the damaged trees, and

(ii) Harvest of fire-damaged trees.

(37) (USDA–37d–USFS) Commercial and non-commercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than ½ mile of temporary road construction, including removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Felling and harvest of trees infested with southern pine beetles and immediately adjacent uninfested trees to control expanding spot infestations, and

(ii) Removal and/or destruction of infested trees affected by a new exotic insect or disease, such as emerald ash borer, Asian long horned beetle, and sudden oak death pathogen.

(38) (USDA–38d–USFS) Land management plans, plan amendments, and plan revisions developed in accordance with 36 CFR part 219 *et seq.* that provide broad guidance and information for project and activity decision-making in a NFS unit. (The plan approval document required by 36 CFR part 219 satisfies the documentation requirement for this categorical exclusion.) Proposals for actions that approve projects and activities, or that command anyone to refrain from undertaking projects and activities, or that grant, withhold or modify contracts, permits or other formal legal instruments, are outside the scope of this category and shall be considered separately under USDA NEPA procedures.

(39) (USDA–39d–USFS) Approval of a Surface Use Plan of Operations for oil and natural gas exploration and initial development activities, associated with or adjacent to a new oil and/or gas field or area, so long as the approval will not

authorize activities in excess of any of the following:

(i) One mile of new road construction;

(ii) One mile of road reconstruction;

(iii) Three miles of individual or co-located pipelines and/or utilities disturbance; or

(iv) Four drill sites.

(40) (USDA–40d–USFS) Restoring wetlands, streams, riparian areas or other water bodies by removing, replacing, or modifying water control structures such as, but not limited to, dams, levees, dikes, ditches, culverts, pipes, drainage tiles, valves, gates, and fencing, to allow waters to flow into natural channels and floodplains and restore natural flow regimes to the extent practicable where valid existing rights or special use authorizations are not unilaterally altered or canceled. Examples include but are not limited to:

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

(ii) Installing a newly-designed structure that replaces an existing culvert to improve aquatic organism passage and prevent resource and property damage where the road or trail maintenance level does not change;

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

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

(41) (USDA–41d–USFS) Removing and/or relocating debris and sediment following disturbance events (such as floods, hurricanes, tornados, mechanical/engineering failures, etc.) to restore uplands, wetlands, or riparian systems to pre-disturbance conditions, to the extent practicable, such that site conditions will not impede or negatively alter natural processes. Examples include but are not limited to:

(i) Removing an unstable debris jam on a river following a flood event and relocating it back in the floodplain and stream channel to restore water flow and local bank stability;

(ii) Clean-up and removal of infrastructure flood debris, such as, benches, tables, outhouses, concrete, culverts, and asphalt following a hurricane from a stream reach and adjacent wetland area; and

(iii) Stabilizing stream banks and associated stabilization structures to reduce erosion through bioengineering

techniques following a flood event, including the use of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).

(42) (USDA–42d–USFS) Activities that restore, rehabilitate, or stabilize lands occupied by roads and trails, including unauthorized roads and trails and National Forest System (NFS) roads and NFS trails, to a more natural condition that may include removing, replacing, or modifying drainage structures and ditches, reestablishing vegetation, reshaping natural contours and slopes, reestablishing drainage ways, or other activities that would restore site productivity and reduce environmental impacts. Examples include but are not limited to:

(i) Decommissioning a road to a more natural state by restoring natural contours and removing construction fills, loosening compacted soils, revegetating the roadbed and removing ditches and culverts to reestablish natural drainage patterns;

(ii) Restoring a trail to a natural state by reestablishing natural drainage patterns, stabilizing slopes, reestablishing vegetation, and installing water bars; and

(iii) Installing boulders, logs, and berms on a road segment to promote naturally regenerated grass, shrub, and tree growth.

(43) (USDA–43d–USFS) Construction, reconstruction, decommissioning, relocation, or disposal of buildings, infrastructure, or other improvements at an existing administrative site, as that term is defined in section 502(1) of Public Law 109–54 (119 Stat. 559; 16 U.S.C. 580d note). Examples include but are not limited to:

(i) Relocating an administrative facility to another existing administrative site;

(ii) Construction, reconstruction, or expansion of an office, a warehouse, a lab, a greenhouse, or a fire-fighting facility;

(iii) Surface or underground installation or decommissioning of water or waste disposal system infrastructure;

(iv) Disposal of an administrative building; and

(v) Construction or reconstruction of communications infrastructure.

(44) (USDA–44d–USFS) Construction, reconstruction, decommissioning, or

disposal of buildings, infrastructure, or improvements at an existing recreation site, including infrastructure or improvements that are adjacent or connected to an existing recreation site and provide access or utilities for that site. Recreation sites include but are not limited to campgrounds and camping areas, picnic areas, day use areas, fishing sites, interpretive sites, visitor centers, trailheads, ski areas, and observation sites. Activities within this category are intended to apply to facilities located at recreation sites managed by the Forest Service and those managed by concessioners under a special use authorization. Examples include but are not limited to:

(i) Constructing, reconstructing, or expanding a toilet or shower facility;

(ii) Constructing or reconstructing a fishing pier, wildlife viewing platform, dock, or other constructed feature at a recreation site;

(iii) Installing or reconstructing a water or waste disposal system;

(iv) Constructing or reconstructing campsites;

(v) Disposal of facilities at a recreation site;

(vi) Constructing or reconstructing a boat landing;

(vii) Replacing a chair lift at a ski area;

(viii) Constructing or reconstructing a parking area or trailhead; and

(ix) Reconstructing or expanding a recreation rental cabin.

(45) (USDA–45d–USFS) Road management activities on up to 8 miles of National Forest System (NFS) roads and associated parking areas. Activities under this category cannot include construction or realignment. Examples include but are not limited to:

(i) Rehabilitating an NFS road or parking area where management activities go beyond repair and maintenance;

(ii) Shoulder-widening or other safety improvements within the right-of-way for an NFS road; and

(iii) Replacing a bridge along an NFS road.

(46) (USDA–46d–USFS) Construction and realignment of up to 2 miles of National Forest System (NFS) roads and associated parking areas. Examples include but are not limited to:

(i) Constructing an NFS road to improve access to a trailhead or parking area;

(ii) Rerouting an NFS road to minimize resource impacts; and

(iii) Improving or upgrading the surface of an NFS road to expand its capacity.

(47) (USDA–47d–USFS) Forest and grassland management activities with a primary purpose of meeting restoration

objectives or increasing resilience. Activities to improve ecosystem health, resilience, and other watershed and habitat conditions may not exceed 2,800 acres.

(i) Activities to meet restoration and resilience objectives may include, but are not limited to:

(A) Stream restoration, aquatic organism passage rehabilitation, or erosion control;

(B) Invasive species control and reestablishment of native species;

(C) Prescribed burning;

(D) Reforestation;

(E) Road and/or trail decommissioning (system and non-system);

(F) Pruning;

(G) Vegetation thinning; and

(H) Timber harvesting.

(ii) The following requirements or limitations apply to this category:

(A) Projects shall be developed or refined through a collaborative process that includes multiple interested persons representing diverse interests;

(B) Vegetation thinning or timber harvesting activities shall be designed to achieve ecological restoration objectives, but shall not include salvage harvesting as defined in Agency policy; and

(C) Construction and reconstruction of permanent roads is limited to 0.5 miles. Construction of temporary roads is limited to 2.5 miles, and all temporary roads shall be decommissioned no later than 3 years after the date the project is completed. Projects may include repair and maintenance of National Forest System (NFS) roads and trails to prevent or address resource impacts; repair and maintenance of NFS roads and trails is not subject to the above mileage limits.

§ 1b.5 Environmental assessments.

(a) *Generally.* If an action is subject to NEPA, as determined following the policy in § 1b.2(e), and unless a USDA subcomponent finds that the proposed action is excluded from having to prepare an environmental assessment or environmental impact statement pursuant to a categorical exclusion as determined following the policy in § 1b.2(f), or by another provision of law, when USDA is the lead agency the USDA subcomponent will prepare an environmental assessment with respect to a proposed action that does not have a reasonably foreseeable significant impact on the quality of the human environment, or if the significance of such effect is unknown. USDA is mindful of Congress' direction that environmental assessments are to be "concise" and set forth the basis of the subcomponent's analysis to support, if

appropriate, a finding of no significant impact (NEPA section 106(b)(2); 42 U.S.C. 4336(b)(2)).

(b) *Scope of analysis.* (1) In preparing the environmental assessment, the USDA subcomponent will focus its analysis on whether the environmental effects of the proposed action (and action alternatives, if any) or project at hand are significant.

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

(3) To the extent it assists in reasoned decision-making, the USDA subcomponent may, but is not required to by NEPA, analyze environmental effects from other actions separate in time, or separate in place, or that fall outside of the USDA subcomponent's regulatory authority, or that would have to be initiated by a third party. If the USDA subcomponent determines that such analysis would assist it in reasoned decision-making, it will document this determination in the environmental assessment and explain where it drew a reasonable and manageable line relating to the consideration of such effects from such separate actions.

(c) *Elements.* For the purpose of providing evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact, USDA subcomponents may apply any format they choose for the environmental assessment, but shall address the following elements at a minimum:

(1) *Purpose and need for the proposal.* The purpose and need should generally be based on the USDA subcomponent's statutory authority. When a subcomponent's statutory duty is to review an application for authorization, the subcomponent may base the purpose and need on the goals of the applicant and the subcomponent's authority.

(2) *No action, proposed action, and alternatives (if any).* (i) No action may be listed as a stand-alone alternative but is not required. The consequences of taking no action, however, shall be included as part of the environmental impacts analysis to contrast the impacts of the proposed action, and any alternative(s) if developed, with the current condition and expected future

condition if the proposed action or alternative were not implemented.

(ii) Alternatives may be included to the extent required by NEPA section 102(2)(H), 42 U.S.C. 4332(2)(H). When there are no unresolved conflicts concerning alternative uses of available resources, the environmental assessment need only analyze the proposed action and may proceed without consideration of additional alternatives.

(iii) Where conflicts have been resolved during development of the proposed action or during the environmental analysis process through iterative modifications to the proposed action—such as addition of design criteria for the proposed action, changing the activities proposed, or adjusting locations of where activities are proposed—this should be described in the environmental assessment as rationale for why additional alternatives were not developed.

(3) *Potentially affected environment and environmental impacts.* Succinctly describe the potentially affected environment that may be affected by the proposed action and alternatives (if any) under consideration. The environmental assessment may combine the potentially affected environment description with evaluation of the environmental consequences, and it should be no longer than is necessary to provide context for the effects of the proposed action and alternatives (if any). Briefly discuss the reasonably foreseeable environmental impacts of the proposed action and alternatives (if any) and provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact, taking into consideration the potential for reasonably foreseeable significant impacts as outlined in § 1b.2(f)(3).

(4) *Agencies and persons consulted.* Provide a succinct list of agencies and persons consulted.

(5) *Other environmental reviews.* Briefly document determinations for compliance with other applicable laws or regulations, as deemed necessary by the responsible official. When effects analysis is completed to demonstrate compliance with other applicable environmental laws, regulations, or executive orders and already addresses a resource being considered for effects under NEPA (e.g., analysis completed for Endangered Species Act, National Historic Preservation Act, Clean Water Act, etc.) and it is clear from that analysis and compliance discussion that no reasonably foreseeable significant impact exists, the responsible official

may rely on that analysis to inform their finding of no significant impact.

(6) *Certifying statements for page limit and deadline.* The responsible official shall certify the environmental assessment complies with the page limit and deadline required by NEPA. Certification statements shall apply the criteria in paragraphs (d)(4) and (h) of this section.

(d) *Page limits*—(1) *Length of text.* The text of an environmental assessment will not exceed 75 pages, not including citations or appendices.

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

(3) *Page formatting.* Environmental assessments shall be formatted for an 8.5 by 11 inches page with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit. When an item of graphical material is larger than 8.5 by 11 inches, each such item will count as one page.

(4) *Certification related to page limits.* The breadth and depth of analysis in an environmental assessment will be tailored to ensure that the environmental analysis does not exceed this page limit. In this regard, as part of the finalization of the environmental assessment, a responsible official will certify (and the certification will be incorporated into the environmental assessment) that the USDA subcomponent has considered the factors mandated by NEPA; that the environmental assessment represents the subcomponent's good-faith effort to prioritize documentation of the substantive issues and most important considerations required by the Act within the congressionally mandated page limits; that this prioritization reflects the subcomponent's expert judgment; and that any issues or considerations addressed briefly or left unaddressed were, in the subcomponent's judgment, comparatively not of a substantive nature (see § 1b.11(53) of this part).

(e) *Deadlines.* As the Supreme Court has repeatedly held, NEPA is governed

by a “rule of reason” and Congress established deadlines for the environmental assessment process in the 2023 revision of NEPA (NEPA section 107(g), 42 U.S.C. 4336a(g)). Thus, USDA subcomponents will complete the environmental assessment not later than the date that is one (1) year after the sooner of, as applicable:

(1) The date on which such agency (or subcomponent) determines that NEPA section 106(b)(2), 42 U.S.C. 4336(b)(2) requires the preparation of an environmental assessment with respect to such action. For internally driven proposals, this determination should not be made until a proposed action is finalized and determined by the responsible official to be ready for interdisciplinary review. For externally-driven proposals (e.g., applications) submitted to a USDA subcomponent which require preparation of an environmental assessment, the responsible official should not make a determination that an action requires the issuance of an environmental assessment until receiving an application the responsible official deems complete and final;

(2) The date on which such agency (or subcomponent) notifies the applicant that the application to establish a right-of-way for such action is complete; or

(3) The date on which such agency (or subcomponent) issues a notice of intent to prepare the environmental assessment for such action. If the subcomponent determines that it will prepare an environmental assessment for a proposed action, the subcomponent may publish notice of intent to publish an environmental assessment. Publication of a notice of intent in the **Federal Register** for an environmental assessment should be the exception rather than the norm and should only be done for those proposals that are of a more complex scope or scale, such as proposals that are regional or national in scope or other instances for which there are numerous cooperating agencies, or interested or affected parties, given the scope of the actions or scale of the proposal.

(f) *Publication of the environmental assessment.* USDA subcomponents shall make the environmental assessment available to the public on a USDA website. At the time the environmental assessment is published on the website, it shall be considered complete and conclude the timeline for the environmental assessment. The USDA subcomponent will publish the environmental assessment (unless the deadline is extended pursuant to paragraph (g) of this section), at the latest, on the day the deadline elapses,

in as substantially complete form as is possible.

(g) *Deadline extensions.* The deadlines described in paragraph (e) of this section indicate Congress’ determination that an agency has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances an extension will be given only for such as time as is necessary to complete the analysis. If a USDA subcomponent determines it is not able to meet the deadline prescribed by NEPA section 107(g)(1)(B), 42 U.S.C. 4336a(g)(1)(B), it must consult with the applicant, if any, pursuant to NEPA section 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, and for cause stated, it may establish a new deadline. If an extension is approved, the new deadline will be documented in writing and included in the proposal record. The documentation of the new deadline will specify the reason why the environmental assessment was not able to be completed under the statutory deadline and whether the applicant consented to the new deadline. The responsible official should consider if other agencies or persons consulted as part of preparing the environmental assessment need to be notified of the change in the deadline.

(1) Cause for establishing a new deadline is only established if the environmental assessment is so incomplete, at the time at which the USDA subcomponent determines it is not able to meet the statutory deadline, that publication pursuant to paragraph (f) of this section would, in the responsible official’s judgment, result in an inadequate analysis that does not meaningfully inform the responsible official’s final decision regarding the proposed action or selected alternative (if applicable). Such new deadline must provide only so much additional time as is necessary to complete such environmental assessment.

(2) USDA subcomponents shall coordinate with the USDA Senior Agency Official (Undersecretary of Natural Resources and Environment), or the applicable mission area Under Secretary or other USDA official with delegated authority, prior to extending the deadline for an environmental assessment, in accordance with § 1b.2(b)(5)(iv).

(h) *Certification Related to Deadline.* When the environmental assessment (EA) is published, the responsible official will certify (and the certification will be incorporated into the environmental assessment) that the resulting EA represents the USDA

subcomponent’s good-faith effort to fulfill NEPA’s requirements within the Congressional timeline; that such effort is substantially complete; that, in the subcomponent’s expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in the responsible official’s judgment, the analysis contained therein is adequate to inform and reasonably explain the responsible official’s finding regarding the proposed action or selected alternative.

§ 1b.6 Finding of no significant impact.

(a) *General.* When a USDA subcomponent is the lead agency, it will prepare a finding of no significant impact if the subcomponent determines, based on the environmental assessment, not to prepare an environmental impact statement because the proposed action or selected alternative, or project at hand, will not have a reasonably foreseeable significant impact on the quality of the human environment. When it will not prevent the USDA subcomponent from meeting the deadline in § 1b.5(e), the finding of no significant impact may be prepared in conjunction with the environmental assessment and included in the same document and will not count towards the page limits in § 1b.5(d).

(b) *Elements.* USDA subcomponents may apply any format they choose for the FONSI, but shall address the following elements at a minimum:

(1) Incorporate by reference the environmental assessment and note any other documentation related to it, such as documentation contained in the proposal record. The finding need not repeat any of the discussion in the environmental assessment;

(2) Include a statement of the selected alternative if other alternatives were considered and analyzed in detail in addition to the proposed action;

(3) Document the reasons why the responsible official has determined that the proposed action or selected alternative will not have a reasonably foreseeable significant impact on the quality of the human environment, based on analysis and evidence provided in the environmental assessment, and conclude with a statement that for these reasons an environmental impact statement will not be prepared. If the responsible official finds no significant impacts based on mitigation, state the authority for any mitigation that the responsible official has adopted and any applicable monitoring or enforcement provisions. If the responsible official finds no significant effects based on mitigation, the mitigated finding of no significant

impact will state any mitigation requirements enforceable by the subcomponent or voluntary mitigation commitments that will be undertaken to avoid significant effects, and any applicable monitoring or enforcement provisions.

(4) A statement regarding when implementation of the action is anticipated to begin; and

(5) Include the date issued and the signature of the responsible official.

(c) *Other documentation consideration.* If a statute or regulation explicitly requires a decision document to approve actions analyzed in an environmental assessment, the finding of no significant impact can be retitled to indicate its function as a decision document.

(d) *Publication of the finding of no significant impact (FONSI).* When the FONSI is not included in the same document as the environmental assessment, as permitted in paragraph (a) of this section, the USDA subcomponents shall make the FONSI available to the public on the USDA website where the environmental assessment is published.

(e) *Notification.* The responsible official shall notify any agencies or persons consulted, as identified in the environmental assessment, that the FONSI is available. Notification shall be in the manner of communication used to consult with the agency or person.

(f) *Timing of action.* Once the USDA subcomponent has published the FONSI on the USDA website and provided necessary notifications (as required in paragraph (e) of this section), and unless other statutes or regulations require otherwise, the USDA subcomponent or applicant may begin implementing the action.

§ 1b.7 Environmental impact statements.

(a) *Generally.* A USDA subcomponent will prepare an environmental impact statement only with respect to proposed actions that otherwise require preparation of an environmental document and that have a reasonably foreseeable significant impact on the quality of the human environment (NEPA section 106(b)(1); 42 U.S.C. 4336(b)(1)). Whether an action rises to the level of significant is a matter of the responsible official's expert judgment, as informed by interdisciplinary analysis. Environmental impact statements will discuss effects in proportion to their reasonably foreseeable significance. With respect to issues that are not of a substantive nature (see § 1b.11(53)) there will be no more than the briefest possible discussion to explain why those issues

are not substantive and therefore not deemed necessary, at the sole discretion of the responsible official, of any further analysis. Environmental impact statements will be analytic, concise, and no longer than necessary to comply with NEPA in light of the congressionally mandated page limits and deadlines.

(b) *Notice of intent.* As soon as practicable after determining that a proposal is sufficiently developed to allow for meaningful public comment and requires an environmental impact statement, when a USDA subcomponent is the lead agency it will publish a notice of intent in the **Federal Register** to prepare an environmental impact statement. Where there is a lengthy delay between the USDA subcomponent's decision to prepare an environmental impact statement and the time of actual preparation, the subcomponent may publish the notice of intent at a reasonable time in advance of preparation of the statement.

(1) The notice of intent to publish an environmental impact statement shall include:

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

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

(iii) A preliminary list of substantive issues to be analyzed in detail, with a brief summary of expected impacts for each issue;

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

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

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

(vii) Identification of any cooperating and participating agencies (*i.e.*, agencies responsible for related actions), and any information that such agencies require in the notice to facilitate their decisions or authorizations;

(viii) A request for public comment on alternatives or effects and on relevant information, studies, or analyses with respect to the proposal (NEPA section 107(c); 42 U.S.C. 4336a(c));

(ix) A link to the website where additional information about the proposal can be found, to include publication of the environmental impact statement and record of decision, as required by paragraph (n) of this section and § 1b.8(c); and

(x) Contact information for a person within the lead agency who can answer questions about the proposed action and the environmental impact statement.

(2) A USDA subcomponent may publish a notice in the **Federal Register** to inform the public of a pause in its preparation of an environmental impact statement.

(3) USDA subcomponents shall publish a notice of intent in the **Federal Register** if a decision is made to withdraw the intent to complete an environmental impact statement, or to withdraw an environmental impact statement already filed with the Environmental Protection Agency (see paragraph (o) of this section).

(c) *Scoping.* When a USDA subcomponent is the lead agency, the subcomponent may use an early and open process to determine the scope of issues and alternatives for analysis in an environmental impact statement, including identifying substantive issues (see § 1b.11(23) and (53)) and eliminating from further study non-substantive issues and action alternatives that are not technically or economically feasible or do not meet the purpose and need of the proposal (NEPA section 102(2)(C)(iii), 42 U.S.C. 4332(2)(C)(iii)). Scoping may begin as soon as practicable after the proposal is sufficiently developed for consideration. Scoping may include appropriate pre-application procedures or work conducted prior to publication of the notice of intent. Scoping is not a statutorily required step in the NEPA review procedures and there is no prescribed process or procedure required for scoping. If a USDA subcomponent is the lead agency, and the responsible official chooses to apply a scoping process, the subcomponent may, as appropriate:

(1) Invite the participation of likely affected Federal, State, Tribal, and local agencies and governments, the applicant, and other likely affected or interested persons;

(2) Hold a scoping meeting or meetings, publish scoping information, or use other means to communicate with those persons or agencies who may be interested or affected, which the subcomponent may integrate with any other early planning meeting; and

(3) Take responsibility for the following:

(i) Allocate assignments for preparation of the environmental impact statement when there are joint and/or cooperating agencies, with the lead agency retaining responsibility for the statement;

(ii) Identify and eliminate from detailed study the issues that are not substantive or have been covered by prior environmental review(s), narrowing the discussion of these issues in the environmental impact statement

to a brief presentation of why they are not of a substantive nature that meaningfully informed the consideration of environmental effects and the resulting decision on how to proceed;

(iii) Identify and eliminate from detailed study action alternatives that are not technically or economically feasible or do not meet the purpose and need of the proposal (NEPA section 102(2)(C)(iii), 42 U.S.C. 4332(2)(C)(iii));

(iv) Indicate any public environmental assessments and other environmental impact statements that are being or will be prepared and are related to, but are not part of, the scope of the impact statement under consideration;

(v) Identify other environmental review, authorization, and consultation requirements to allow for other required analyses and studies to be prepared concurrently and integrated with the environmental impact statement and ensure any joint and/or cooperating agencies have shared understanding of their role in meeting these requirements;

(vi) Indicate the relationship between the timing of the preparation of the environmental impact statement and the subcomponent's (or agencies') tentative planning and decision-making schedule; and

(vii) Specify the USDA website where additional information will be provided as the environmental impact statement is developed.

(d) *Requesting comments.* During the process of preparing an environmental impact statement, when a USDA subcomponent is the lead agency, it:

(1) Will request the comments of (NEPA section 102(2)(C), 42 U.S.C. 4332(2)(C)):

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

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

(2) May request the comments of:

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

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

(iii) The applicant, if any; and

(iv) The public, including by affirmatively soliciting comments in a manner designed to inform those

persons or organizations who may be interested in or affected by the proposed action or action alternatives.

(3) The process of obtaining and requesting comments may be undertaken at any time that is determined reasonable by the responsible official in the process of preparing the environmental impact statement.

(4) The USDA subcomponent shall ensure that the process of obtaining and requesting comments, and the responsible official's subsequent consideration of those comments (as outlined in paragraph (f) of this section), does not cause the subcomponent to violate the congressionally mandated deadline for completion of an environmental impact statement, as specified in paragraph (k) of this section.

(e) *Electronic submission and publication of comments.* USDA subcomponents shall:

(1) Provide for electronic submission of comments.

(2) Electronically publish all substantive comments received on an environmental impact statement, including those received in response to the notice of intent to prepare an environmental impact statement, or any other opportunities for comment. If a USDA subcomponent does not have the capability or capacity to publish substantive comments electronically, the subcomponent shall include a summary of substantive comments received, including those received in response to the notice of intent publication or any other opportunities for comment, as an appendix in the environmental impact statement.

(f) *Considering and addressing substantive comments.* A USDA subcomponent preparing an environmental impact statement:

(1) Shall consider and should address in writing comments that raise substantive issues and/or recommendations.

(i) Comments shall be analyzed to determine substantive issues raised (see § 1b.11(23) and (53)) and, if applicable, recommendations made to remedy the issues.

(ii) Multiple comments regarding the same or similar substantive issues and/or recommendations may be grouped and paraphrased as one issue or recommendation. The USDA subcomponent need not address every comment individually. Rather, the manner and degree to which comments should be addressed should be commensurate with the degree to which the comments raise issues and/or recommendations that have bearing on

the proposed action, development of alternatives, or analysis of the reasonably foreseeable significant impacts of the proposed action or alternatives.

(2) When addressing in writing substantive issues raised and/or recommendations made, documentation should focus on identifying the action the responsible official took in response to the issue and/or recommendation. The action taken in response to a substantive issue or recommendation may include:

(i) Modifying alternatives, including the proposed action;

(ii) Developing and evaluating alternatives not previously given serious consideration by the subcomponent;

(iii) Supplementing, improving, or modifying analyses;

(iv) Consideration of science or literature not previously considered, if the commenter clearly identifies cause-and-effect issues relating the literature to the environmental analysis;

(v) Making factual corrections; or

(vi) No action needed. The USDA subcomponent may provide brief rationale for taking no action, such as: the comment is outside the scope of what is being proposed; there is no cause-effect relationship between the actions the subcomponent is proposing and the issue raised and/or recommendation made; the commenter misinterpreted the information provided; or the recommendation made does not comply with applicable laws or regulations and/or is not feasible to implement (technically or economically) or does not meet the purpose and need of the proposal, etc.

(3) Where action was taken and when substantive issues and recommendations are addressed in writing, the USDA subcomponent should, where feasible, cite to where in the environmental impact statement or supporting proposal record the indicated action taken is accounted for.

(4) The USDA subcomponent's documentation of how substantive issues and recommendations were addressed should be included as an appendix in the environmental impact statement when this will not prevent the subcomponent from publishing the environmental impact statement within the deadlines specified in paragraph (k) of this section.

(g) *Scope of analysis.* (1) In preparing the environmental impact statement, the USDA subcomponent will focus its analysis on whether the environmental effects of the proposed action and action alternatives, or project at hand, are significant.

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

(3) To the extent it assists in reasoned decision-making, the USDA subcomponent may, but is not required to by NEPA, analyze environmental effects from other actions separate in time, or separate in place, or that fall outside of the USDA subcomponent's regulatory authority, or that would have to be initiated by a third party. If the USDA subcomponent determines that such analysis would assist it in reasoned decision-making, it will document this determination in the environmental impact statement and explain where it drew a reasonable and manageable line relating to the consideration of such effects from such separate actions.

(h) *Elements.* Environmental impact statements shall state the alternatives considered and disclose the difference in anticipated effects between alternatives. USDA subcomponents may apply any format they choose for the environmental impact statement, but shall address the following elements at a minimum:

(1) *Cover.* The cover shall not exceed two pages, front and back, and should include the following to convey necessary information associated with the proposal:

(i) The title of the proposal that is the subject of the statement;

(ii) A list of the responsible agencies, including the lead agency and any joint or cooperating agencies. Where the number of cooperating agencies is excessive, the list need only include the types of agencies participating as cooperating agencies;

(iii) Specification of where the action is located, such as the State(s), county(ies), or other applicable jurisdiction(s); and

(iv) The name, mailing address, email address, and telephone number of the person at the lead agency who can supply further information about the proposal.

(2) *Purpose and need for the proposal.* The purpose and need should generally be based on the USDA subcomponent's statutory authority. When a USDA subcomponent's statutory duty is to review an application for authorization, the subcomponent may base the purpose and need on the goals of the

applicant and the subcomponent's authority.

(3) *Proposed action and alternatives* (NEPA sections 102(2)(C)(iii) and 102(2)(E), 42 U.S.C. 4332(2)(C)(iii) and (2)(E)). The alternatives section should list the no action alternative and describe the proposed action and the action alternatives in comparative form based on the difference in scope and scale of the activities proposed. Negative environmental impacts of not implementing the proposed action may be discussed in this section of the environmental impact statement or in conjunction with environmental impacts, as specified in paragraph (h)(5)(iv) of this section. In this section, USDA subcomponents shall:

(i) Evaluate a reasonable range of alternatives, in addition to the proposed action. Alternatives analyzed in detail must be technically and economically feasible and meet the purpose and need of the proposal (NEPA section 102(2)(C)(iii), 42 U.S.C. 4332(2)(C)(iii));

(ii) Not commit resources prejudicing selection of alternatives before making a final decision;

(iii) Briefly discuss the reasons the subcomponent eliminated alternatives from detailed study; and

(iv) Discuss each alternative considered in detail, including the proposed action, so that the responsible official may evaluate their comparative merits.

(4) *Potentially affected environment.* Succinctly describe the environment of the area(s) that may potentially be affected by the alternatives under consideration. The environmental impact statement may combine the potentially affected environment description with evaluation of the environmental consequences, and it should be no longer than is necessary to provide context for the effects of the alternatives.

(5) *Environmental impacts.* The environmental impacts section forms the scientific and analytic basis for the comparisons under subparagraph (3) above. It shall consolidate the discussions of those elements required by NEPA sections 102(2)(C)(i), (ii), (iv), and (v), 42 U.S.C. 4332(2)(C)(i)(ii)(iv) and (v), and that are within the scope of the statement and as much of section 102(2)(C)(iii) of NEPA, section 4332(2)(C)(iii), as is necessary to support the comparisons. This section should not duplicate discussions outlined in paragraph (h)(3) of this section. When conducting analysis and documenting determinations for compliance with other applicable environmental laws, regulations, or executive orders (e.g., analysis

completed for Endangered Species Act, National Historic Preservation Act, Clean Water Act, etc.), as deemed necessary by the responsible official, that analysis may be relied on to inform discussions of significance in the environmental impact statement. The discussion shall include:

(i) Reasonably foreseeable environmental impacts of the proposed action and alternatives;

(ii) Any means identified to reduce adverse environmental effects, such as design criteria included in the proposed action or action alternatives;

(iii) Any reasonably foreseeable adverse environmental impacts which cannot be avoided should the proposed action or alternatives be implemented;

(iv) Consequences of taking no action to contrast the impacts of the proposed action and alternatives with the current condition and expected future condition if the proposed action or alternative were not implemented;

(v) Any adverse environmental impacts or consequences of not implementing the proposed action or alternatives;

(vi) Any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed action, or an action alternative, should it be implemented; and

(vii) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(6) *Environmental review and consultation requirements, to include a list of agencies and persons consulted.* The environmental impact statement shall document compliance with other applicable laws or regulations, as deemed necessary by the responsible official, and list all Federal permits, licenses, and other authorizations that must be obtained in implementing the proposed action. If it is uncertain whether a Federal permit, license, or other authorization is necessary, the environmental impact statement shall so indicate. Provide a succinct list of agencies and persons consulted.

(7) *Appendices (if any).* (i) Appendices in the environmental impact statement may consist of:

(A) Material prepared in connection with an environmental impact statement (as distinct from material that is not incorporated by reference);

(B) Material substantiating any analysis fundamental to the environmental impact statement; and

(C) Material relevant to the decision to be made.

(ii) See paragraph (e) of this section regarding the need to provide a

summary of comments received in response to the publication of the notice of intent, or any other opportunities for public comment, as an appendix in the environmental impact statement if comments cannot be electronically published.

(iii) See paragraph (f)(4) regarding the recommendation to provide documentation of how comments were addressed as an appendix in the environmental impact statement.

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

(8) *Certifying statements for page limit and deadline.* The responsible official shall certify the environmental impact statement complies with the page limit and deadline required by NEPA. Certification statements shall apply the criteria in paragraphs (j) and (m) of this section.

(i) *Page limits.* Except as provided in paragraph (i)(1) of this section, the text of an environmental impact statement will not exceed 150 pages, not including citations or appendices.

(1) An environmental impact statement for a proposal of extraordinary complexity will not exceed 300 pages, not including any citations or appendices.

(2) USDA subcomponents shall coordinate with the USDA Senior Agency Official (Undersecretary of Natural Resources and Environment), or the applicable mission area Under Secretary or other USDA official with delegated authority, prior to determining that an environmental impact statement is of extraordinary complexity.

(3) Environmental impact statements shall be prepared on 8.5 inch by 11-inch paper with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit. When an item of graphical material is larger than 8.5 by 11 inches, each such item shall count as one page.

(j) *Certification related to page limits.* The breadth and depth of analysis in an environmental impact statement will be tailored to ensure that the

environmental analysis does not exceed the page limit. In this regard, as part of the finalization of the environmental impact statement, a responsible official will certify (and the certification will be incorporated into the environmental impact statement) that the USDA subcomponent has considered the factors mandated by NEPA; that the environmental impact statement represents the subcomponent's good-faith effort to prioritize documentation of the substantive issues and most important considerations required by the Act within the congressionally mandated page limits; that this prioritization reflects the subcomponent's expert judgment; and that any issues or considerations addressed briefly or left unaddressed were, in the subcomponent's judgment, comparatively not of a substantive nature (see § 1b.11(53)).

(k) *Deadlines.* As the Supreme Court has repeatedly held, NEPA is governed by a "rule of reason" and Congress established deadlines for the environmental impact statement process in the 2023 revision of NEPA (NEPA section 107(g), 42 U.S.C. 4336a(g)). A USDA subcomponent will complete the environmental impact statement not later than the date that is 2 years after the sooner of, as applicable:

(1) The date on which the subcomponent determines that section 102(2)(C) requires the issuance of an environmental impact statement with respect to such action. For internally driven proposals, this determination should not be made until a proposed action is finalized and determined by the responsible official to be ready for interdisciplinary review. For externally-driven proposals (e.g., applications) to a USDA subcomponent which require preparation of an environmental impact statement, the responsible official should not make a determination that an action requires the issuance of an environmental impact statement until receiving an application the responsible official deems complete and final.

(2) The date on which the subcomponent notifies the applicant that the application to establish a right-of-way for such action is complete; or

(3) The date on which the subcomponent issues a notice of intent to prepare the environmental impact statement for such action.

(l) *End of deadline.* The environmental impact statement will be considered complete at the time it is published on a USDA website and is not indicated to be a draft. The USDA subcomponent will publish the environmental impact statement (unless the deadline is extended pursuant to

paragraph (l)(1) of this section) on the day the deadline elapses, in as substantially complete form as is possible.

(1) *Deadline extensions.* The deadlines described in paragraph (k) of this section indicate Congress' determination that an agency has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances, an extension will be given only for such as time as is necessary to complete the analysis. If a USDA subcomponent determines it is not able to meet the deadline prescribed by NEPA section 107(g)(1)(A), 42 U.S.C. 4336a(g)(1)(A), it must consult with the applicant, if any, pursuant to NEPA section 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, and for cause stated, it may establish a new deadline by getting approval from the USDA official delegated authority for extending deadlines as specified in 1b.2(b)(2)(iv). If an extension is approved, the new deadline will be documented in writing and included in the proposal record. The documentation of the new deadline will specify the reason why the environmental impact statement was not able to be completed under the statutory deadline and whether the applicant consented to the new deadline. The documentation for extending an environmental impact statement deadline shall be posted on the USDA website specified in the notice of intent to prepare an environmental impact statement. The responsible official should consider if other agencies or persons consulted as part of preparing the environmental impact statement need to be notified of the change in the deadline.

(2) *Cause for deadline extension.* Cause for establishing a new deadline is only established if the environmental impact statement is so incomplete, at the time at which the USDA subcomponent determines it is not able to meet the statutory deadline, that issuance pursuant to paragraph (l) of this section would, in the responsible official's judgment, result in an inadequate analysis that does not meaningfully inform the responsible official's final decision regarding the proposed action or selected alternative. Such new deadline must provide only so much additional time as is necessary to complete such environmental impact statement.

(m) *Certification related to deadlines.* When the environmental impact statement is published, a responsible official will certify (and the certification will be incorporated into the

environmental impact statement) that the resulting environmental impact statement represents the USDA subcomponent's good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; and that, in the subcomponent's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in the responsible official's judgment, the analysis contained therein is adequate to inform and reasonably explain the responsible official's final decision regarding the proposed action or selected alternative.

(n) *Publishing the environmental impact statement.* (1) During the process of preparing the environmental impact statement, a responsible official may choose to publish a draft environmental impact statement and any other pre-decisional materials that, in their judgment, may assist in fulfilling their responsibilities under NEPA and in facilitating the request for comments. Any draft environmental impact statement will be published to the USDA website that was specified in the notice of intent to prepare an environmental impact statement and will not be filed with the Environmental Protection Agency until such time it is considered complete. The responsible official shall ensure that the process of publishing a draft environmental impact statement does not cause the subcomponent to violate the congressionally mandated deadline for completion of an environmental impact statement as specified in paragraph (k) of this section.

(2) If the responsible official does not publish a draft environmental impact statement, they will publish the completed environmental impact statement to the USDA website that was specified in the notice of intent to prepare an environmental impact statement. The same version published to the USDA website must also be filed with the Environmental Protection Agency in accordance with the provision at paragraph (o) of this section.

(o) *Filing the environmental impact statement.* USDA subcomponents shall file completed environmental impact statements with the Environmental Protection Agency (EPA), Office of Federal Activities, consistent with EPA's procedures. Subcomponents may file environmental impact statements with the EPA at the same time they are transmitted to participating agencies and made available to the public. When the record of decision is included in the same document as the environmental impact statement, as permitted in

paragraph (a) of § 1b.8, it shall also be filed.

§ 1b.8 Records of decision.

(a) *General.* Upon completing the environmental impact statement, at the time of its decision a USDA subcomponent, if the lead agency, shall prepare and publish a record of decision or joint record of decision. When it will not prevent the USDA subcomponent from meeting the deadline in § 1b.7(k), the record of decision may be prepared in conjunction with the environmental impact statement and included in the same document and will not count towards the page limits in § 1b.7(i). When including the record of decision in the environmental impact statement (EIS), the EIS cover page should be updated to reflect the document also includes the record of decision.

(b) *Elements.* USDA subcomponents may apply any format they choose for the record of decision, but shall address the following elements at a minimum:

(1) Incorporate by reference the environmental impact statement and note any other documentation related to it, such as documentation contained in the proposal record. The record of decision need not repeat any of the discussion in the environmental impact statement;

(2) Certify that the subcomponent has considered all the substantive alternatives, information, and analyses submitted by State, Tribal, and local governments and public commenters for consideration by the lead and cooperating agencies in developing the environmental impact statement;

(3) State the decision, that is, the alternative selected;

(4) Provide explanation on how the responsible official considered significance, in accordance with § 1b.2(f)(3), relative to the alternatives described in the environmental impact statement;

(5) Identify and discuss all such factors, including any essential considerations of national policy, that the responsible official balanced in making the decision and state how those considerations informed the decision. The discussion may include preferences among alternatives based on other relevant factors, such as environmentally preferable, economic and technical feasibility considerations, and subcomponent statutory missions;

(6) State any means identified to mitigate adverse environmental effects of the proposed action or selected alternative. The responsible official is mindful in this respect that NEPA imposes no substantive environmental obligations or restrictions and does not

require or authorize the subcomponent to impose any mitigation measures. The subcomponent shall adopt and summarize, where applicable, a monitoring and enforcement program for any enforceable mitigation requirements or commitments;

(7) A statement regarding when implementation of the action is anticipated to begin; and

(8) Include the date issued and the signature of the responsible official.

(c) *Publication of the ROD.* When the ROD is not included in the same document as the environmental impact statement, as permitted in paragraph (a) of this section, USDA subcomponents shall make the record of decision available to the public on the USDA website that was specified in the notice of intent to prepare an environmental impact statement.

(d) *Notification.* The responsible official shall notify any agencies or persons consulted, as listed in the environmental impact statement, and any parties that submitted comments during in response to publication of the notice of intent or any other opportunities for comment on the environmental impact statement, that the record of decision has been signed and is available on a USDA website. Notification shall be in the manner of communication used to consult with the agency, person, or party.

(e) *Timing of action.* The Environmental Protection Agency publishes a notice of availability in the **Federal Register** each week of the environmental impact statements filed since its prior notice. Once the Environmental Protection Agency publishes the notice of availability in the **Federal Register** for the environmental impact statement filed by the USDA subcomponent and the subcomponent has published the record of decision on a USDA website and provided necessary notifications (as required in paragraph (d) of this section), and unless other statutes or regulations require otherwise, the USDA subcomponent or applicant may begin implementing the action.

§ 1b.9 Efficient and effective environmental reviews.

(a) *Proposal Record.* Upon determining NEPA applies and an environmental document must be developed, USDA subcomponents should begin compiling the proposal record early in the process. The proposal record should be maintained throughout the NEPA process to ensure the responsible official has all necessary information available on which they base iterative decisions during the

NEPA process, required findings and determinations (to include those required for other applicable laws or regulations), and approval of the action. The proposal record should include the following:

(1) Internal communications that contain substantive information demonstrating why the responsible official proceeded the way it did, to include briefing papers, presentations, emails, or other documented communications that capture rationale and decisions made at key points in the NEPA process;

(2) Necessary documentation generated by applicants or contractors, where documentation is determined not to be a potentially privileged information (see paragraph (c) of this section);

(3) Technical information, to include sampling results, survey information, engineering reports, applicable resource and program assessments, maps, etc.;

(4) Cost-benefit analysis if completed, as well as any technical or feasibility studies completed to inform development of the proposed action or action alternatives;

(5) External communications that contain substantive information about the proposal, to include a notice of intent to prepare an environmental impact statement and other such documents that invite feedback from the public or other external parties, and consultation communications with regulatory agencies and tribes (where information is not determined to be a potential withholding or privileged, as specified in paragraph (c) of this section);

(6) Comments or other submissions received from external parties or the public, as well as documentation, if any, of how substantive issues raised and/or recommendations made were considered and the action taken;

(7) Draft versions of any documents circulated externally for comment or review;

(8) Documents containing guidance or information that the USDA subcomponent relied on when developing the proposed action (or action alternatives) or conducting analysis, to include literature and scientific papers;

(9) Environmental documents, to include updated or supplemental versions when applicable, as specified in paragraph (r) of this section;

(10) Finding and determination documents, as well as decision documents; and

(11) Any other information deemed applicable by the responsible official.

(b) *Freedom of Information Act requests.* USDA subcomponents shall make documents associated with the NEPA review and integrated environmental review, comments received, and any other underlying documents available pursuant to the provisions of the Freedom of Information Act, as amended (5 U.S.C. 552), and in accordance with the subcomponent's statutory authority for protecting certain information.

(c) *Potential withholdings and privileges.* USDA subcomponents shall identify data or information with potential withholdings or privileges—such as potentially sensitive information about threatened or endangered species locations, cultural or heritage sites when certain conditions are met, third-party proprietary information, or personally identifiable information—and mark it as such in the proposal record to ensure it is properly reviewed prior to responding to Freedom of Information Act requests or other such requests for documentation regarding the NEPA process and other environmental analysis, consultation, or compliance efforts occurring commensurate with the NEPA process.

(d) *Classified information.* To the extent practicable, USDA subcomponents shall segregate any information that has been classified pursuant to Executive order or statute. Subcomponents shall maintain the confidentiality of such information in a manner required for the information involved. Such information may not be included in any publicly disclosed documents. If such material cannot be reasonably segregated, or if segregation would leave essentially meaningless material, the subcomponent must withhold the entire analysis document from the public; however, the subcomponent shall otherwise prepare the analysis documentation in accord with applicable regulations.

(e) *Reducing paperwork.* USDA subcomponents should avoid excessive paperwork and shall ensure environmental assessments and environmental impact statements meet specified page limits established by NEPA section 107(e), 42 U.S.C. 4336a(e). Recommended best practices for reducing paperwork include, but are not limited to:

(1) Preparing analytic and concise environmental documents by using web-based collaboration and document management platforms that allow for interdisciplinary review and analysis to occur in a centralized document that reduces redundant and contradictory discussions that can occur when

analysis is documented in a partitioned and individualized manner;

(2) Compiling and maintaining the proposal record throughout the NEPA process so information can be efficiently incorporated by reference when it is appropriate to do so and meets the requirements specified in paragraph (c)(7) of this section;

(3) Discussing only briefly issues that are not identified as substantive issues and eliminating from further study non-substantive issues;

(4) Writing environmental documents and associated analyses in plain language;

(5) Following a clear format for environmental documents and associated decision documents that is tailored to address only the minimum requirements outlined in NEPA and this part;

(6) Integrating NEPA requirements with other environmental review and consultation requirements, and where appropriate to do so relying on analyses done to demonstrate compliance with other laws and regulations to inform findings and determinations made for NEPA;

(7) Incorporating (by reference), into an environmental document, any applicable material—such as planning studies, analyses, or other relevant information—developed specifically to support that environmental document or associated decision document when the effect will be to cut down on bulk without impeding other agency and public review of the action; and

(i) USDA subcomponents shall cite the incorporated material in the document in a manner that identifies the content it contains.

(ii) Subcomponents may not incorporate material by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment, when an opportunity for comment is provided.

(iii) Subcomponents should not incorporate by reference material with potential withholdings or privileges or that is classified (see paragraphs (c) and (d) of this section) as such material is not available for review and comment.

(8) Relying on an existing environmental assessment (EA), environmental impact statement (EIS), finding of no significant impact (FONSI), record of decision (ROD), documentation of a finding of applicability and no extraordinary circumstance (FANEC), or a portion thereof—to include supporting analysis documentation not included in an EA, EIS, FONSI, ROD or FANEC documentation itself—provided that the assessment, statement, finding,

decision, analyses, or portion thereof provides the information necessary to inform the required findings or conclusions required for the level of NEPA being completed. USDA subcomponents may rely on previous analysis completed by the subcomponent or analysis completed by any other Federal agency where it makes sense to do so given the nature of the proposal, the potentially affected environment, and the anticipated effects.

(i) *Environmental impact statements and environmental assessments.* When relying on a previous environmental impact statement or environmental assessment in full, if the actions covered by the original document and anticipated effects are substantially the same for the current proposal being considered, the USDA subcomponent relying on the previously completed document shall specify the reliance in the applicable finding or decision document and provide explanation of how the actions were determined similar and the effects determined adequate (both quantitatively and qualitatively). For an environmental impact statement, the document need not be refilled with the Environmental Protection Agency but shall be published, with the new record of decision, on a USDA website and included in the proposal record. For an environmental assessment, the document shall be published, with the new finding of no significant impact, on a USDA website and included in the proposal record.

(ii) *Categorical exclusions.* Refer to § 1b.3(h).

(iii) *Other analysis or portions of environmental documents.* USDA subcomponents may also rely on other analysis or portions of environmental documents when these contain information that supports necessary NEPA or other environmental law conclusions or determinations required by provisions of environmental law other than NEPA's procedural requirements (e.g., those required by Endangered Species Act, National Historic Preservation Act, Clean Water Act, etc.). The analysis or environmental document(s) relied upon shall be included in the proposal record.

(iv) *Adequacy of analysis and inclusion in the proposal record.* A brief description shall be provided in the environmental document being completed as to how the effects analysis being relied on is adequate (both quantitatively and qualitatively) given the actions being proposed. The other analysis or environmental documents being relied on shall be included in the

proposal record (as outlined in paragraph (a) of this section).

(v) *Programmatic documents.* Refer to paragraph (q) of this section for discussion on relying on programmatic environmental documents.

(vi) *Identification of certain circumstances.* When relying on another environmental document, other analysis, or portion thereof, USDA subcomponents shall specify if the subcomponent is relying on an environmental document, other analysis, or portion thereof that is:

(A) Not final within the agency that prepared it;

(B) The subject of an adequacy referral to the Council on Environmental Quality for NEPA or a referral to the applicable regulatory agency for other laws (e.g., U.S. Fish and Wildlife Service for Endangered Species Act compliance); or

(C) The subject of a judicial action that is not final.

(f) *Reducing delay.* USDA subcomponents should reduce delay in the environmental review process. For environmental assessments and environmental impact statements, subcomponents shall ensure documents are completed within the deadlines specified in NEPA section 107(g), 42 U.S.C. 4336a(g). Recommended best practices for reducing delay include, but are not limited to:

(1) Establishing (§ 1b.3(b)), adopting (§ 1b.3(c)), and applying (§ 1b.3(e)) categorical exclusions for categories of actions that normally do not have a significant effect on the human environment and therefore do not require preparation of an environmental assessment or environmental impact statement;

(2) Completing an environmental assessment when an action, which is not otherwise categorically excluded, is not anticipated to have a significant effect on the human environment and therefore is not expected to require preparation of an environmental impact statement;

(3) Integrating considerations of the applicable NEPA process early in proposed action development;

(4) Integrating NEPA requirements with other environmental review and consultation requirements;

(5) Designating a person to manage and expedite the NEPA and overall environmental review process, such as a project manager or an individual with adequate NEPA and environmental review experience;

(6) Engaging in interagency cooperation before or as the environmental impact statement is

prepared, rather than awaiting submission of comments;

(7) Identifying and eliminating from detailed study the issues that are not substantive or have been covered by prior environmental review(s), and narrowing the discussion of these issues in the effects analysis to a brief presentation of why they are not of a substantive nature;

(8) Ensuring swift and fair resolution of lead agency disputes;

(9) Requiring comments received during in response to publication of a notice of intent to prepare an environmental impact statement, or other opportunities for comment, to be as specific as possible and, if documenting how substantive comments were considered, focusing on documenting the action taken in response to the substantive issues raised and/or recommendations made; and

(10) Eliminating duplication with State, Tribal, and local procedures by providing for joint preparation of environmental documents where practicable (see paragraph (l) of this section), and with other Federal procedures, by providing that a USDA subcomponent may rely on appropriate environmental documents or analysis prepared by another agency (see paragraph (e)(8) of this section).

(g) *Interdisciplinary preparation.* As required in NEPA section 102(2)(A), 42 U.S.C. 4332(2)(A), USDA subcomponents shall prepare environmental documents using an interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts. The disciplines of the preparers should be appropriate to the scope and issues identified at the sole discretion of the responsible official.

(h) *Methodology.* As required by NEPA section 102(2)(D), 42 U.S.C. 4332(2)(D), USDA subcomponents:

(1) Shall ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental documents;

(2) May make use of any reliable data sources, such as remotely gathered information or statistical models;

(3) Should identify any methodologies used and make explicit reference to the scientific and other sources relied upon for conclusions in the environmental document; and

(4) May place discussion of methodology used or list references cited in the proposal record or include these as an appendix in an environmental assessment or environmental impact statement.

(i) *Scientific accuracy.* USDA subcomponents should make use of existing credible and reliable scientific resources, data, and evidence that is relevant to evaluating the reasonably foreseeable impacts on the human environment. Subcomponents should not undertake new scientific and technical research to inform its analyses unless it is essential to a reasoned choice among alternatives and the overall costs and time frame of such undertaking are not unreasonable.

(j) *Information availability.* When a USDA subcomponent is evaluating a proposed action's reasonably foreseeable impacts on the human environment, and there is incomplete or unavailable information that cannot be obtained at a reasonable cost or the means to obtain it are unknown, the subcomponent should make clear in the relevant environmental document that such information is lacking.

(k) *Public involvement.* USDA subcomponents may host or sponsor public hearings, public meetings, or other opportunities for public involvement as deemed necessary by the responsible official to inform the decision-making process or in accordance with statutory requirements applicable to the subcomponent. Subcomponents may conduct public hearings and public meetings by means of electronic communication except where another format is required by law. When selecting appropriate methods for public involvement, subcomponents should consider the ability of affected entities to access the methods used. USDA subcomponents:

(1) Should announce opportunities for public involvement on USDA websites where environmental documents are published.

(2) May provide additional guidance as needed to ensure interested persons can get information or status reports on environmental documents and other elements of the NEPA process.

(3) Should establish online platforms or systems that facilitate the sharing of environmental documents and other information pertinent to the management of environmental reviews conducted in conjunction with the applicable level of NEPA.

(l) *Elimination of duplication with State, Tribal, and local procedures.* USDA subcomponents may cooperate with State, Tribal, and local agencies that are responsible for preparing environmental documents, including those prepared pursuant to NEPA section 102(2)(G), 42 U.S.C. 4332(2)(G). To the fullest extent practicable, unless specifically prohibited by law, USDA subcomponents will cooperate with

State, Tribal, and local agencies to reduce duplication between NEPA and State, Tribal, and local requirements, including through use of studies, analysis, and decisions developed by State, Tribal, or local agencies. Such cooperation may include:

- (1) Joint planning processes;
- (2) Joint environmental research and studies;
- (3) Joint public hearings (except where otherwise provided by statute); or
- (4) Joint environmental documents.

(m) *Timely and unified Federal reviews.* In many instances, a proposal or decision is undertaken in the context which entails activities or decisions undertaken by other Federal agencies (for example, where multiple Federal authorizations or analyses are required with respect to a proposal sponsor's overall purpose and goal). These activities and decisions are "related actions," in that they are each the responsibility of a particular agency but they are all related in a matter relevant to NEPA by their relationship with one overarching proposal. In such instances, Congress has provided that the multiple agencies involved shall determine which of them will be the lead agency pursuant to the criteria identified in NEPA section 107(a)(1)(A), 42 U.S.C. 4336a(a)(1)(A). When serving as the lead agency, a USDA subcomponent is ultimately responsible for completing the NEPA process. When a joint lead relationship is established pursuant to NEPA section 107(a)(1)(B), 42 U.S.C. 4336a(a)(1)(B), a USDA subcomponent and the other joint lead agency or agencies are collectively responsible for completing the NEPA process.

(1) *Lead agency.* If a USDA subcomponent is participating in developing a proposal and there are two or more participating Federal agencies, the lead agency shall be determined in accordance with NEPA section 107(a)(1)(A), 42 U.S.C. 4336a(a)(1)(A). A lead agency shall fill the role described in NEPA section 107(a)(1)(B)(2), 42 U.S.C. 4336a(a)(1)(B)(2).

(i) Any Federal, State, Tribal, or local agency or person that is substantially affected by the lack of a designation of a lead agency with respect to a proposal, as described in paragraph (m) of this section, may submit a written request for such a designation to a participating Federal agency. An agency that receives a request under this paragraph shall transmit such request to each participating Federal agency and to the Council on Environmental Quality, in accordance with NEPA section 107(a)(4), 42 U.S.C. 4336a(a)(4).

(ii) When serving as the lead agency, the USDA subcomponent will

determine the scope of the analysis for the proposal in accordance with §§ 1b.5(b) and 1b.7(g) and document the scope of the project at hand.

(2) *Joint lead agencies.* In making a determination under paragraph (m) of this section, the participating Federal agencies may appoint such State, Tribal, or local agencies as joint lead agencies as the involved Federal agencies shall determine appropriate. Joint lead agencies shall jointly fulfill the role described in NEPA section 107(a)(1)(B)(2), 42 U.S.C. 4336a(a)(1)(B)(2).

(3) *Cooperating agencies.* In accordance with NEPA section 107(a)(3), 42 U.S.C. 4336a(a)(3), the lead agency may, with respect to a proposal, designate any Federal, State, Tribal, or local agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal to serve as a cooperating agency. A cooperating agency may, not later than a date specified in the schedule established by the lead agency, submit comments to the lead agency.

(n) *Unified documentation.* If a USDA subcomponent proposal will require action by more than one Federal agency and the lead agency, as described in NEPA section 107(A), 42 U.S.C. 4336a(A), has determined that it requires preparation of an environmental document, the lead and cooperating agencies should evaluate the proposed action (and any action alternatives) in a single environmental document. If a USDA subcomponent is not the lead agency and the lead agency's NEPA implementing procedures specify:

(1) Format requirements for documenting categorical exclusion considerations, environmental assessments, or environmental impact statements, the USDA subcomponent should follow the formatting requirements for the lead agency.

(2) Format and signature requirements for findings of no significant impact or records of decision (and for categorical exclusion NEPA documentation if required), the USDA subcomponent should follow the format and signature requirements for the lead agency's finding or decision document. If more than one responsible official needs to sign a document, multiple signature blocks should be added to the one document created by the lead agency. When multiple signature blocks are included, the document shall specify what each signing responsible official is approving given the nature of the actions proposed and the responsible official's statutory authority.

(o) *Disagreement concerning proposed major Federal actions.* In the event there are interagency disagreements concerning designation of a lead or joint agency or disagreements over proposed major Federal actions that might cause significant environmental effects, these matters shall be referred to the USDA Senior Agency Official for determination on whether the disagreement needs elevated to the Council on Environmental Quality. The USDA Senior Agency Official may delegate this authority to the applicable mission-area Undersecretary or other USDA official for a subcomponent with NEPA responsibilities, per § 1b.2(b)(2)(ix)).

(p) *Programmatic actions.* Environmental impact statements and environmental assessments may be prepared for programmatic Federal actions. When USDA subcomponents prepare such statements, they should be relevant to the program decision and timed to coincide with meaningful points in subcomponent planning and decision-making. When preparing statements on programmatic actions (including proposed actions by more than one agency), USDA subcomponents may find it useful to evaluate the proposed actions in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area;

(2) Generically, including actions that have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter; or

(3) By stage of technological development including Federal or federally assisted research, development or demonstration programs for new technologies that, if applied, could significantly affect the quality of the human environment. Statements on such programs should be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(q) *Relying on programmatic documents.* Consistent with NEPA section 108, 42 U.S.C. 4336b, and paragraph (e)(8) of this section, after completing a programmatic environmental assessment or environmental impact statement, USDA subcomponents may rely on that document for 5 years if there are not substantial new circumstances or information about the significance of adverse impacts that bear on the analysis. After 5 years, as long as the

subcomponent reevaluates the analysis (see paragraph (r) of this section regarding reevaluation of environmental documents) in the programmatic environmental document and any underlying assumption to ensure reliance on the analysis remains valid and briefly documents its reevaluation and explains why the analysis remains valid considering any new and substantial information or circumstances, the subcomponent may continue to rely on the document. Determinations of whether the analysis in the programmatic document and reliance on any underlying assumptions remains valid may be made on a case-by-case or programmatic basis and record keeping of the justifications for these determinations is advisable.

(r) *Reevaluation of environmental documents.* USDA subcomponents shall reevaluate, and if necessary, correct, revise, or supplement (hereinafter update) environmental documents, if a major Federal action or portion thereof remains to occur, and:

(1) The subcomponent makes changes to the proposed action, or selected alternative, that have the potential to change the anticipated degree of effect; or

(2) There are new circumstances or information with relevance to the proposal and these have bearing on the proposed action (or selected alternative) or potential to change the anticipated degree of effect.

(s) *Proposals for rules or regulations.* Where the proposal is the promulgation of a rule or regulation, procedures and documentation pursuant to other statutory or Executive order requirements may satisfy one or more requirements of this part. When a procedure or document satisfies one or more requirements of this part, a USDA subcomponent may substitute it for the corresponding requirements in this part and need not carry out duplicative procedures or documentation. Subcomponents will identify which corresponding requirements in this part are satisfied and consult with CEQ to confirm such determinations. For informal rulemaking conducted pursuant to the Administrative Procedure Act, 5 U.S.C. 553, the environmental document will normally accompany the proposed rule.

(t) *Proposals for legislation.* When developing legislation, USDA subcomponents shall integrate the NEPA process for proposals for legislation significantly affecting the quality of the human environment with the legislative process of the Congress. Technical drafting assistance does not by itself constitute a legislative

proposal. Only the Federal agency that has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

(1) A legislative environmental impact statement is the detailed statement required by law to be included in a Federal agency's recommendation or report on a legislative proposal to Congress. A legislative environmental impact statement shall be considered part of the formal transmittal of a legislative proposal to Congress; however, it may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate statement that can serve as the basis for public and Congressional debate. The statement must be available in time for Congressional hearings and deliberations.

(2) Preparation of a legislative environmental impact statement shall conform to the requirements of the regulations in this subchapter, except there need not be a scoping process.

(u) *Unique identification numbers.* For environmental assessments and environmental impacts statements, USDA subcomponents will provide a unique identification number for tracking purposes, which the subcomponent will reference on other documents associated with the proposal and in any database or tracking system for such documents. A subcomponent may provide a unique identification number on documentation for a finding of applicability and no extraordinary circumstances where useful to do so. The unique identification number may be a number generated by a USDA subcomponent system used to track environmental reviews or an identification numbering process specified by the USDA Senior Agency Official or the Council on Environmental Quality.

(v) *Emergencies—Immediate actions.* If emergency circumstances exist that make it necessary to take action to mitigate harm to life, property, or important natural, cultural, or historic resources, the responsible official may take such actions without preparing an environmental analysis or environmental document. When taking such actions, the responsible official shall take into account the probable environmental consequences of the emergency action and mitigate foreseeable adverse environmental effects to the extent practical.

(w) *Emergencies—Urgent but not immediate actions.* If emergency circumstances exist that make it necessary to take urgently needed actions before the NEPA process can be

completed, the responsible official shall proceed as follows:

(1) When urgent actions are not likely to have a reasonably foreseeable significant environmental impacts, but an emergency exists that makes it necessary to take urgently needed actions before preparing documentation associated with a categorical exclusion, environmental assessment, or finding of no significant impact, USDA subcomponents may authorize alternative arrangements for environmental compliance so long as the alternative arrangements are limited to actions necessary to address the emergency circumstance. Alternative arrangements will, to the extent practicable, attempt to achieve the substantive requirements of this part for the level of NEPA being completed. USDA subcomponents should proceed as follows:

(i) Animal and Plant Health Inspection Services. The responsible official shall consult with the APHIS official who is delegated the authority to oversee NEPA compliance for the environmental unit. The APHIS official who is delegated the authority may authorize emergency alternative arrangements for completing the required NEPA compliance documentation.

(ii) Farm Service Agency. The responsible official shall consult the National Environmental Compliance Manager (or designee) who, with direction from the FSA Administrator (or designee), will identify alternative arrangements for compliance with this part with the appropriate subcomponents.

(iii) Rural Development. (Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service.) The responsible official shall consult the National Director for Environmental and Historic Preservation (or designee) who, in coordination with the Administrator (or designee) and appropriate subcomponents, will identify alternative arrangements for compliance with this part.

(iv) U.S. Forest Service. The responsible official shall consult with the national headquarters office about alternative arrangements. Consultation with national headquarters shall be coordinated through the applicable regional (or equivalent) office. The Chief or Associate Chief of the Forest Service may grant emergency alternative arrangements under NEPA for categorical exclusions, environmental assessments, and associated findings.

(v) All other USDA subcomponents. The responsible official shall consult

with the national program manager for environmental review, NEPA compliance, or other equivalent program to determine the appropriate mission area official who can authorize alternative arrangements for categorical exclusions, environmental assessments, and findings of no significant impact. When the national program manager is unsure how to proceed, they should consult the USDA Senior Agency Official (or their designee).

(2) When urgent actions are likely to have significant environmental impacts, but an emergency exists that makes it necessary to take urgently needed actions before preparing an environmental impact statement or record of decision, the responsible official taking the action shall request consultation with the Council on Environmental Quality (CEQ) about alternative arrangements for compliance with NEPA section 102(2)(C), 42 U.S.C. 4332(2)(C). Consultation with CEQ shall be requested through the USDA Senior Agency Official (Undersecretary of Natural Resources and Environment). The USDA Senior Agency Official will coordinate with the applicable USDA mission area when arranging consultation with CEQ. The USDA Senior Agency Official and CEQ will limit such arrangements to urgent actions necessary to address the emergency circumstance prior to preparing the environmental impact statement.

§ 1b.10 Documentation prepared by applicant or third party.

(a) *Environmental assessments and environmental impact statements.* In accordance with NEPA section 107(f), 42 U.S.C. 4336a(f), USDA subcomponents may allow an applicant or other third party (e.g., contractor) to prepare an environmental assessment or environmental impact statement, in whole or in part, under their supervision. Each USDA subcomponent is responsible for the accuracy, scope, and content of documentation prepared by an applicant or third party under the supervision of the agency. USDA subcomponents shall ensure applicants or third parties apply the process and documentation criteria set forth in this part and comply with all other applicable environmental laws, regulations, or executive orders under the subcomponent's purview. The agency may provide additional guidance to the applicants or third parties. Applicant and third-party preparation is subject to the following:

(1) A USDA subcomponent may require an applicant to submit environmental information for possible

use by the subcomponent in preparing an environmental assessment or environmental impact statement. The subcomponent may also direct an applicant or authorize a third party to prepare an environmental assessment or environmental impact statement under the supervision of the agency.

(2) The subcomponent will assist the applicant by outlining the types of information required or, for the preparation of an environmental assessment or environmental impact statement, should provide guidance to the applicant or third party and participate in their preparation.

(3) The subcomponent may also provide appropriate guidance and assist in preparation of an environmental assessment or environmental impact statement, to the extent that the subcomponent's resources and policy priorities admit. The subcomponent will work with the applicant to define the purpose and need, and, when appropriate, to develop a reasonable range of alternatives to meet that purpose and need.

(4) The subcomponent shall independently evaluate the information or documentation submitted to determine if the accuracy, scope, and contents are sufficient and comply with USDA documentation criteria for an environmental assessment or environmental impact statement, and it shall take responsibility for its contents.

(5) Applicants or third parties preparing an environmental assessment or environmental impact statement shall submit a disclosure statement to the lead agency that specifies any financial or other interest in the outcome of the action. Such statement need not include privileged or confidential trade secrets or other confidential business information.

(6) Nothing in this section is intended to prohibit any USDA subcomponent from requesting any person, including the applicant, to submit information to it or to prohibit any person from submitting information to any agency for use in preparing an environmental assessment or environmental impact statement.

(7) The USDA subcomponent will work with the applicant to develop a schedule for preparation of an environmental assessment or an environmental impact statement. Major changes to the schedule or related matters will be documented through written correspondence in accordance with § 1b.5(g) and 1b.7(l)(1).

(b) *NEPA documentation for categorical exclusions.* For purposes of this part, subcomponents may also allow an applicant or other third party

to complete, in whole or in part, documentation for a finding of applicability and no extraordinary circumstance for categorical exclusions requiring NEPA documentation. Applicant and third-party preparation of categorical exclusion NEPA documentation is also subject to paragraphs (a)(1) through (6) of this section, as it would pertain to NEPA documentation for a categorical exclusion.

§ 1b.11 Definitions and acronyms.

(a) *Definitions.* As used in this part, terms have the meanings provided in NEPA section 111, 42 U.S.C. 4336(e). The following definitions apply to this part. USDA subcomponents shall use these terms uniformly throughout the Department.

(1) *Act* or *NEPA* means the National Environmental Policy Act, as amended (42 U.S.C. 4321–4347).

(2) *Action alternative* (or *alternative*) means an alternate means of implementing actions that is different from the agency's proposed action. Alternatives are developed in response to a substantive issue(s) and should demonstrate a clear difference in impacts when compared to the proposed action.

(3) *Agency* means a subcomponent of the United States Department of Agriculture.

(4) *Affecting* means will or may have an effect on.

(5) *Alternative.* See *action alternative*.

(6) *Authorization* means any license, permit, approval, finding, determination, or other administrative decision issued by an agency that is required or authorized under Federal law in order to implement a proposed action or selected alternative.

(7) *Categorical exclusion (CE).* See NEPA section 111(1), 42 U.S.C. 4336e(1).

(8) *Control agents* means biological material or chemicals that are intended to enhance the production efficiency of an agricultural crop or animal such as through elimination of a pest.

(9) *Cooperating agency.* See NEPA section 111(2), 42 U.S.C. 4336e(2).

(10) *Council* means the Council on Environmental Quality established by title II of NEPA.

(11) *Design criteria* (or *design elements*, *design features*, or *conservation practices* etc.) means constraints or requirements proactively added to the proposed action (or action alternatives) or through an iterative interdisciplinary process to avoid or minimize adverse impacts. The need for design criteria is informed by the need to comply with other laws, regulations,

or executive orders; interdisciplinary discussions that identify best management practices or other design recommendations; feedback from the public or external parties; or other input provided during proposed action development and preliminary effects analysis phases. When design criteria are added in response to an issue, that issue should no longer be analyzed in detail in the analysis process. Design criteria include:

(i) Avoiding the adverse impact altogether by not taking a certain action or parts of an action;

(ii) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation; or

(iii) Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action.

(12) *Effects or impact* means changes to the human environment from the proposed action or action alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives.

(i) Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects. Effects may also include those resulting from actions that may have both beneficial and detrimental effects, even if on balance the USDA subcomponent believes that the effect will be beneficial.

(ii) A “but for” causal relationship is insufficient to make a USDA subcomponent responsible for a particular effect under NEPA. Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include those effects that the subcomponent has no ability to prevent due to the limits of its regulatory authority or that would occur regardless of the proposed action or selected alternative, or that would need to be initiated by a third party.

(iii) A USDA subcomponent's analysis of effects shall be consistent with this paragraph.

(13) *Emergency* means a situation demanding immediate or urgent action, where delaying action to follow standard procedures would be contrary to the public interest, as determined by a responsible official.

(14) *Environmental assessment (EA).* See NEPA section 111(4), 42 U.S.C. 4336e(4). An EA is also an environmental document. (Refer to the definition for “environmental

documents” in subparagraph (15) of this section.)

(15) *Environmental document.* See NEPA section 111(5), 42 U.S.C. 4336e(5).

(16) *Environmental impact statement (EIS).* See NEPA section 111(6), 42 U.S.C. 4336e(6). An EIS is also an environmental document. (Refer to the definition for “environmental documents” in paragraph (a)(15) of this section.)

(17) *Extraordinary circumstance* means a unique situation exists in which actions that normally do not have significant impacts—and are therefore categorically excluded from documentation in an environmental assessment or environmental impact statement—create uncertainty whether the degree of the effect is significant, or certainty that the degree of effect is significant, for the relevant resources considered.

(18) *Federal agency* means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. For the purposes of these USDA implementing procedures, Federal agency also includes States, units of general local government, and Tribal governments assuming NEPA responsibilities from a Federal agency pursuant to statute.

(19) *Finding of applicability and no extraordinary circumstance (FANEC)* means a determination by a USDA subcomponent that a category (or categories) fits the proposed actions and extraordinary circumstances (as defined in paragraph (a)(17) of this section) do not exist for a categorically excluded action, and therefore the issuance of an environmental assessment or environmental impact statement is not required.

(20) *Finding of no significant impact (FONSI).* See NEPA section 111(7), 42 U.S.C. 4336e(7). A FONSI is also an environmental document. (Refer to the definition for “environmental documents” in paragraph (a)(15) of this section.)

(21) *Human environment* means comprehensively the natural and physical environment and the relationship of present and future generations of Americans with that environment. (See also the definition of “effects” in paragraph (a)(12) of this section.)

(22) *Impact.* See *Effect*.

(23) *Issue* means a logical cause-effect relationship between the actions proposed (cause) and the reasonably foreseeable impacts (effect) on resources

found in the affected environment. An issue may be addressed by modifying the proposed action, developing an action alternative, or supplementing, improving, or modifying the analysis to better understand the effects.

(24) *Jurisdiction by law (or statutory authority)* means Federal agency authority to approve, veto, or finance all or part of the proposal.

(25) *Lead agency*. See NEPA section 111(9), 42 U.S.C. 4336e(9).

(26) *Legislation* means a bill or legislative proposal to Congress developed by a Federal agency but does not include requests for appropriations or legislation recommended by the President.

(27) *Level of NEPA* refers to categorical exclusion, environmental assessment, or environmental impact statement.

(28) *Major Federal action*: See NEPA section 111(10), 42 U.S.C. 4336e(10).

(29) *Mitigation (or mitigation measure)* means constraints or requirements that avoid, minimize, or compensate for adverse impacts caused by a proposed action or selected alternative. Mitigations are documented in a finding of no significant impact or record of decision and are determined by the responsible official in reaction to the effects described in an environmental assessment or environmental impact statement. While NEPA requires consideration of mitigation, it does not mandate the form or adoption of any mitigation. Mitigation includes:

(i) Avoiding the adverse impact altogether by not taking a certain action or parts of an action;

(ii) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation;

(iii) Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment;

(iv) Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action; or

(v) Compensating for the adverse impact by replacing or providing substitute resources or environments.

(30) *NEPA process* means all the steps necessary to complete a level of NEPA (categorical exclusion, environmental assessment, or environmental impact statement) and issue the associated finding or decision document (finding of applicability and no extraordinary circumstance when NEPA documentation is required for a categorical exclusion, finding of no significant impact, or record of decision) to conclude the process.

(31) *Notice of availability* means a public announcement in the **Federal Register** that a document, generally an environmental impact statement (EIS), is available for review.

(32) *Notice of intent* means a public notice in the **Federal Register** that an agency will prepare an environmental impact statement (EIS), is pausing or resuming preparation of an EIS, or is withdrawing an EIS. In limited situations it can mean a public notice in the **Federal Register** that an agency will prepare an environmental assessment.

(33) *Page* means 8.5 by 11 inches paper with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information. When an item of graphical material is larger than 8.5 by 11 inches, each such item shall count as one page.

(34) *Participating agency* means a Federal, State, Tribal, or local agency participating in an environmental review or authorization of an action.

(35) *Potentially affected environment* means the condition of the physical, biological, social, and economic factors that may be impacted by a proposed action (or action alternative).

(36) *Programmatic environmental document*. See NEPA section 111(11), 42 U.S.C. 4336e(11).

(37) *Proposal (or Project)*. See NEPA section 111(12), 42 U.S.C. 4336e(12).

(38) *Proposal record (or project record)* means all relevant documentation and records, including all environmental analysis documents and comment submissions, that contain information the responsible official relies on to make iterative decisions throughout the NEPA process or to determine if and how the action will be approved.

(39) *Proposed action* means the set of actions, to include design criteria when applicable, that is submitted for final interdisciplinary environmental review and effects analysis.

(40) *Publish and publication* mean methods found by the agency to efficiently and effectively make environmental documents and information available for review by interested persons, including electronic publication.

(41) *Purpose and need* means the reason action is needed in a location at this time. The purpose and need should generally be based on the USDA subcomponent's statutory authority. When a subcomponent's statutory duty is to review an application for

authorization, the subcomponent may base the purpose and need on the goals of the applicant and the subcomponent's authority.

(42) *Reasonable alternatives* means a reasonable range of alternatives that are technically and economically feasible, meet the purpose and need for the proposal, and, where applicable, meet the goals of the applicant.

(43) *Reasonably foreseeable* means sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.

(44) *Record of decision* is a determination by the responsible official on how to proceed with respect to a proposed action and action alternatives that have reasonably foreseeable significant impacts on the quality of the human environment, as described in an environmental impact statement.

(45) *Related action* means an action undertaken by an agency, such as a permitting action, some other type of authorization action, an analysis required by statute, or the like, that bears a relationship to other actions undertaken by other agencies relevant to NEPA, whereas the set of related actions are all related to one overarching proposal.

(46) *Responsible official* means the USDA subcomponent employee who has the authority to determine: when NEPA applies, what level of NEPA review is appropriate, the extent of environmental review; the final NEPA finding and compliance with other applicable laws, regulations, and executive orders; and, how to proceed for a proposed action or action alternative(s).

(47) *Scale* refers to the spatial extent or magnitude of the actions being proposed.

(48) *Scope* consists of the range of actions and alternatives developed for a proposal or the issues and impacts to be considered in an environmental analysis.

(49) *Senior agency official* means an official of assistant secretary rank or higher (or equivalent) that is designated for overall agency NEPA compliance, including resolving implementation issues.

(50) *Significance* means considering whether the reasonably foreseeable impacts of the proposed action are significant and analyzing the potentially affected environment and degree of the effects of the action.

(i) Potentially affected environment means the condition of the physical, biological, social, and economic factors that may be impacted by an action.

(ii) In considering the degree of effects, USDA subcomponents should

consider the following, as appropriate to the specific action and in the context of the potentially affected environment:

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

(B) Both beneficial and adverse effects.

(C) Effects on public health and safety.

(D) Economic effects.

(E) Effects on the quality of life of the American people.

(iii) In providing rationale for whether the degree of effect is significant, responsible officials shall consider:

(A) How the unavoidable short- and long-term adverse impacts of implementing the action compares to the short- and long-term adverse or beneficial consequences of not implementing the action as it relates to effects on public health and safety, economics, and the quality of life of the American people; and

(B) How the irreversible or irretrievable commitment of a resource, as part of the action, contributes to a loss of long-term productivity for the human environment.

(51) *Special expertise* means statutory responsibility, agency mission, or related program experience.

(52) *Subcomponent* means a mission area, agency, or staff office of the United States Department of Agriculture (USDA).

(53) *Substantive* means information that meaningfully informs the consideration of reasonably foreseeable impacts on the human environment and the resulting significance determination or decisions on how to proceed (*i.e.*,

alternatives to be considered or analyzed or the alternative selected for implementation).

(54) *USDA Senior Agency Official* means the Under Secretary of Natural Resources and Environment.

(b) *Acronyms*. The following acronyms may appear throughout this part or may be used when applying this part during the applicable NEPA process:

(1) APHIS—Animal and Plant Health Inspection Service

(2) CE—Categorical Exclusion

(3) CEQ—Council on Environmental Quality

(4) CFR—Code of Federal Regulations

(5) EA—Environmental Assessment

(6) EIS—Environmental Impact Statement

(7) FANEC—Finding of Applicability and No Extraordinary Circumstance

(8) FONSI—Finding of No Significant Impact

(9) FSA—Farm Service Agency

(10) NEPA—National Environmental Policy Act

(11) NRCS—Natural Resources Conservation Service

(12) RD—Rural Development

(13) ROD—Record of Decision

(14) OSEC—Office of the Secretary

(15) USDA—U.S. Department of Agriculture

(16) USFS—U.S. Forest Service

§ 1b.12 Severability.

The sections of this part are separate and severable from one another. If any section or portion therein is stayed or determined to be invalid, or the

applicability of any section to any person or entity is held invalid, it is USDA's intention that the validity of the remainder of those parts will not be affected, with the remaining sections and all applications thereof to continue in effect.

Part 372 [Removed and Reserved]

■ 2. Remove and reserve part 372.

Part 520 [Removed and Reserved]

■ 3. Remove and reserve part 520.

Part 650 [Removed and Reserved]

■ 4. Remove and reserve part 650.

Part 799 [Removed and Reserved]

■ 5. Remove and reserve part 799.

Part 1970 [Removed and Reserved]

■ 6. Remove and reserve part 1970.

Part 3407 [Removed and Reserved]

■ 7. Remove and reserve part 3407.

Title 36—Parks, Forests, and Public Property

Part 220 [Removed and Reserved]

■ 8. Remove and reserve part 220.

Kristin Sleeper,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 2025–12326 Filed 7–1–25; 2:30 pm]

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Part III

Department of Energy

10 CFR Parts 205 and 1021

Revision of National Environmental Policy Act Implementing Procedures;
Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 205 and 1021

[DOE-HQ-2025-0026]

RIN 1990-AA52

Revision of National Environmental Policy Act Implementing Procedures

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule substantially revises Department of Energy's (DOE) regulations containing its National Environmental Policy Act (NEPA) implementing procedures, which were promulgated to supplement now-rescinded Council on Environmental Quality regulations. Mindful that the Supreme Court recently clarified NEPA is a "purely procedural statute," DOE will henceforth maintain the remainder of its procedures in a procedural guidance document separate from the Code of Federal Regulations (DOE NEPA implementing procedures). Thus, DOE is revising 10 CFR part 1021 to contain only administrative and routine actions excepted from NEPA review in appendix A, its existing categorical exclusions in appendix B, related requirements, and a provision for emergency circumstances. DOE is revising appendix A in 10 CFR part 1021 to align with DOE's new NEPA implementing procedures that it is publishing separate from the Code of Federal Regulations. Appendix A in 10 CFR part 1021 (formerly categorical exclusions) are now administrative and routine actions that do not require NEPA review. DOE is also revising 10 CFR part 205, subpart W, to remove the NEPA procedures from its Presidential permit regulations.

DATES: This interim rule is effective July 3, 2025. Comments are due by August 4, 2025.

ADDRESSES: Documents relevant to this rulemaking are posted on the Federal eRulemaking Portal at <https://www.regulations.gov> (Docket: DOE-HQ-2025-0026). Documents posted to this docket include: this interim final rule; and two "redline/strikeout" (markup) files indicating the changes in this interim final rule for 10 CFR parts 205 and 1021.

Submit comments, labeled "Revision of DOE NEPA Implementing Regulations, RIN 1990-AA52," using the *Federal eRulemaking Portal*: www.regulations.gov.

Instructions: All submissions must include the agency name, "Department of Energy," and docket number, DOE-HQ-2025-0026, for this rulemaking. All comments received will be posted without change to www.regulations.gov, including any personal information provided. Do not submit any information you consider to be private, Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Docket: For access to the docket to read comments received, go to www.regulations.gov.

DOE NEPA procedures: DOE's new NEPA implementing procedures are available at <https://energy.gov/nepa>.

FOR FURTHER INFORMATION CONTACT: Carrie Abravanel, Office of NEPA Policy and Compliance, at DOE-NEPA-Rulemaking@hq.doe.gov or (202) 586-4600 or Office of NEPA Policy and Compliance, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585.

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I. Introduction

The Department of Energy (DOE) is issuing this interim final rule to remove its existing implementing regulations for the National Environmental Policy Act of 1969, *et seq.*, as amended (NEPA). DOE's existing NEPA implementing regulations were promulgated as a "supplement[] . . . to be used in conjunction with," 10 CFR 1021.100, the Council on Environmental Quality's (CEQ's) NEPA regulations. DOE also "adopt[ed]" the CEQ's regulations by incorporation. 10 CFR 1021.103. But the CEQ's regulations have been repealed,

effective April 11. *See Removal of National Environmental Policy Act Implementing Regulations* (Feb. 25, 2025). Moreover, in Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 29, 2025), President Trump rescinded President Carter's E.O., 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make rules to begin with. DOE's regulations, which were a "supplement[] . . . to be used in conjunction with" those CEQ regulations, thus stand in obvious need of fundamental revision. President Trump in E.O. 14154 further directed agencies to revise their NEPA implementing procedures.

Not only that, but Congress recently amended NEPA in significant part in the Fiscal Responsibility Act of 2023 (FRA), in which Congress increased the length of Title I of NEPA by more than 300%, providing much detail on procedural issues, which CEQ and individual acting agencies had previously needed to address in their own procedures. With DOE's NEPA implementing procedures still unmodified more than two years after this significant legislative overhaul, it is exigent that DOE move quickly to conform its procedures to the statute as amended. Finally, the Supreme Court has recently issued its decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), in which it described the "transform[ation]" of NEPA "from a modest procedural requirement into a blunt and haphazard tool employed by project opponents (who may not always be entirely motivated by concern for the environment) to try to stop or at least slow down new infrastructure and construction projects." *Id.* at 1507, 1513. The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a "course correction" mandating that courts give "substantial deference" to reasonable agency conclusions underlying its NEPA process. *Id.* at 1513–1514. But the Court also acknowledged, and through its course correction sought to address, the effect on "litigation-averse agencies" which, in light of judicial "micromanage[ment]," had been "tak[ing] ever more time and [] prepar[ing] ever longer EISs for future projects." *Id.* at 1513. DOE, thus, is issuing this Interim Final Rule (IFR) to align its actions with the Supreme Court's decision and streamline its process of ensuring reasonable NEPA

decisions. This revision has thus been called for, authorized, and directed by all three branches of government at the highest possible levels.

DOE's procedures for implementing the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, as amended, are contained principally in 10 CFR part 1021. Additional DOE NEPA procedures are contained in 10 CFR part 205, subpart W. These procedures in 10 CFR part 205, subpart W specifically relate to applications for a Presidential permit authorizing the construction, connection, operation, and maintenance of facilities for transmission of electric energy at international boundaries under E.O. 10485 (18 FR 5397; September 3, 1953), as amended by E.O. 12038 (43 FR 4957; February 3, 1978).

DOE is issuing this interim final rule to revise 10 CFR part 1021 so that it includes only DOE's existing categorical exclusions in appendix B, related requirements, and a provision for emergency circumstances; and to remove NEPA procedures from 10 CFR part 205, subpart W. Other than these few provisions, DOE's procedures will henceforth be contained in the *U.S. Department of Energy National Environmental Policy Act (NEPA) Implementing Procedures*, a copy of which is reprinted below for explanatory purposes only (and will not be codified in the CFR). The procedures are intended to be non-binding guidance.

The Supreme Court could not have been clearer in *Seven County* that NEPA is a procedural statute. *See Seven County*, 145 S. Ct. 1507 (“NEPA is a purely procedural statute.”); *see id.* at 1510 (“NEPA is purely procedural. . . . NEPA does not mandate particular results, but simply prescribes the necessary process for an agency’s environmental review of a project”); (internal quotation omitted); *id.* at 1511 (NEPA is a *purely procedural statute*”); *id.* at 1513 (NEPA is properly understood as “a modest procedural requirement”); *id.* at 1514 (“NEPA’s status as a purely procedural statute”); *see also id.* at 1507 (“Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.”). The history of DOE’s implementing regulations also reflects the understanding that they were understood as procedural rules, for they were uncoded for over a decade before being codified “as a matter of good policy,” *id.* at 1517. This is, moreover, consistent with the approach that several other Federal agencies have used for decades.

Also, this action fulfills President Trump’s directive in E.O. 14154 for each agency to, in consultation with the CEQ,

revise its agency-level NEPA implementing procedures in light of the Fiscal Responsibility Act. 90 FR 8355. Executive Order 14301, *Reforming Nuclear Reactor Testing at the Department of Energy*, (May 23, 2025) directed DOE in section 6(a) to “take action to reform the Department’s rules governing compliance with the National Environmental Policy Act (NEPA) no later than June 30, 2025, consistent with the policies articulated in sections 2 and 5 of Executive Order 14154 of January 20, 2025 (Unleashing American Energy), and with applicable law.” This interim final rule also fulfills that direction.

In addition, DOE is removing NEPA procedures from its Presidential permit regulations (10 CFR part 205, subpart W) to be consistent with the removal of most DOE NEPA procedures in 10 CFR part 1021 and to avoid confusion among potential applicants. DOE has previously stated that it issues Presidential permits pursuant to authority delegated by the President under E.O. 10485, as amended by E.O. 12038, which provides that “the proper conduct of foreign relations of the United States requires that executive permission be obtained for the construction and maintenance at the borders of the United States of facilities for the exportation or importation of electric energy and natural gas[.]”¹ The authority delegated to DOE by the E.O. does not derive from any act of Congress but arises “by virtue of the authority vested in [the President] as President of the United States and Commander in Chief of the armed forces of the United States[.]”² Thus, in issuing a Presidential permit, DOE does not act pursuant to its congressionally established authority as a Federal agency, but on behalf of the President pursuant to a delegation of the President’s authority under the United States Constitution. It is settled and established law that the President is not an “agency” within the meaning of the Administrative Procedure Act (APA) and that Presidential actions are not subject to NEPA review.³ Because NEPA

review is not required for Presidential actions, DOE has further determined it appropriate to remove the NEPA procedures within its Presidential permit regulations at 10 CFR part 205, subpart W.

DOE is retaining its categorical exclusions in appendix B and related requirements in regulation to avoid any uncertainty about the continuation of its already-established categorical exclusions or the procedural mechanism through which DOE established them. The 2023 revisions to NEPA and the 2025 repeal of the Council on Environmental Quality’s (CEQ’s) NEPA procedures do not require reconsideration or repeal of DOE’s previous determinations as to which of its actions normally do not significantly affect the quality of the human environment, which is the basis for an agency’s establishment of a categorical exclusion, *see* NEPA § 111(1). DOE is retaining a provision for action in emergency situations to ensure that DOE can respond timely to any such event and to avoid any confusion regarding the continued validity of this already-established provision for action in emergency situations.

DOE has prepared new NEPA implementing procedures that are reprinted as part of this IFR for explanatory purposes only; they will not be codified in the CFR. These new DOE NEPA implementing procedures ensure compliance with NEPA, as amended. DOE’s new NEPA procedures are also available at <https://energy.gov/nepa>. DOE will begin implementing its new NEPA procedures immediately.

Prior to and separate from this interim final rule, DOE published a direct final rule on May 16, 2025, (90 FR 20753) that removes several sections of 10 CFR part 205 as part of a deregulatory action consistent with Executive Order 14192, *Unleashing Prosperity Through Deregulation* signed on January 31, 2025 (90 FR 9065). Some of the changes made in this interim final rule duplicate aspects of that prior direct final rule, with the same effect regarding removing the NEPA provisions from DOE’s Presidential permit regulations. There is, however, no substantive conflict between this interim final rule and the previously published direct final rule.

A. National Environmental Policy Act

Congress enacted NEPA to declare a national policy “to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote

¹ 18 FR 5397 (preamble).

² *Id.*

³ *Franklin v. Massachusetts*, 505 U.S. 788, 800 (1992) (holding the President is not subject to judicial review under the APA, given “the separation of powers and the unique constitutional position of the President”); *see also Dalton v. Specter*, 511 U.S. 462, 469–471 (1994); *Portland Audubon Soc’y v. Endangered Species Committee*, 984 F.2d 1534, 1547 (9th Cir. 1993); and, *Greene County, Planning Bd. v. Fed. Power Comm’n*, 528 F.2d 38 (2d Cir. 1975) (holding that issuance of a Presidential permit by DOE’s predecessor agency was not subject to judicial review under the Federal Power Act because the issuance of such a permit is “a function rooted in the President’s power with

respect to foreign relations if not as Commander in Chief of the Armed Forces”).

the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and [to] fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. 4331(a).

NEPA, as amended by the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, furthers this national policy by requiring Federal agencies to prepare an environmental impact statement (EIS)—“in essence, a report”—for proposed “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. 4332(2)(C); *Seven County*, 145 S. Ct. 1507. This statement must address: (1) The reasonably foreseeable environmental effects of the proposed agency action; (2) any reasonably foreseeable adverse environmental effects that cannot be avoided should the proposal be implemented; (3) a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal; (4) the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed action should it be implemented. 42 U.S.C. 4332(2)(C).

NEPA does not mandate particular results or substantive outcomes. *Seven County*, 145 S. Ct. at 1510–1512. Rather, NEPA requires Federal agencies to consider the environmental effects of proposed actions as part of agencies’ decision-making processes. As amended by the Fiscal Responsibility Act of 2023, NEPA provides requirements to facilitate timely and unified Federal reviews, including provisions clarifying lead, joint lead, and cooperating agency designations, generally requiring the development of a single environmental document, directing agencies to develop procedures for project sponsors to prepare environmental assessments and environmental impact statements, and prescribing page limits and deadlines. 42 U.S.C. 4336a. NEPA also sets forth the circumstances under which agencies may rely on programmatic environmental documents, 42 U.S.C. 4336b, and adopt and use another agency’s categorical exclusions. 42 U.S.C. 4336c.

NEPA identifies three levels of review—categorical exclusion,

environmental assessment, and environmental impact statement. 42 U.S.C. 4336a. A categorical exclusion is a “a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of [NEPA] section 102(2)(C).” 42 U.S.C. 4336e(1). An environmental assessment is a “concise” document “set[ting] forth the basis of [an] agency’s finding of no significant impact or determination that an environmental impact statement is necessary,” prepared in connection with a proposed agency action that does not have a significant impact or the significance of whose impact is unknown. 42 U.S.C. 4336(b)(2). An environmental impact statement is a document analyzing a proposed agency action with significant impact, governed by the provisions of 42 U.S.C. 4332(2)(C), 4336(b)(1).

B. DOE NEPA Implementing Procedures and Regulations

In 1979, DOE established 10 CFR part 1021 through a rulemaking that adopted the CEQ NEPA implementing regulations (44 FR 45918). From 1979 to 1992, as a supplement to the CEQ NEPA implementing regulations, DOE issued its NEPA implementing procedures as “guidelines,” which also listed categories of actions that normally do not have potential to cause significant environmental impacts (categorical exclusions) (45 FR 20694; 45 FR 78756; 47 FR 7976; 48 FR 685; 52 FR 659; 52 FR 47662; 54 FR 12474; 55 FR 37174).

In 1992, after notice and comment, DOE replaced the NEPA guidelines with revised and expanded DOE NEPA regulations at 10 CFR part 1021 (57 FR 15122), including adoption of the CEQ NEPA implementing regulations. The proposed and final rulemakings were both explicit that DOE was “issuing its NEPA Guidelines as regulations that will be published in the *Code of Federal Regulations*” to “ensure that its NEPA procedures are more accessible to the public,” and not because the agency had changed its mind that the procedures were just that, procedural. 57 FR 15122; 55 FR 46444. Indeed, both emphasized that “[t]he rule amends and codifies already existing policies and procedures for compliance with NEPA,” and contained no substantive changes that would impose obligations on private citizens. 57 FR 15144; 55 FR 46448. In 1996, DOE made changes to the DOE NEPA regulations to improve efficiency by clarifying and streamlining certain DOE requirements, including those relating to power marketing activities (61 FR 36222; 61 FR 64603). In 2011, DOE amended the DOE NEPA

regulations to modify and clarify existing provisions and to add 20 new categorical exclusions and make associated changes (76 FR 63764). In 2020, DOE updated the DOE NEPA regulations regarding authorizations under section 3 of the Natural Gas Act, including revising a categorical exclusion for exporting natural gas (85 FR 78197). In 2024, DOE added a new categorical exclusion for certain energy storage systems and revised categorical exclusions for upgrading and rebuilding powerlines and for solar photovoltaic systems (89 FR 34074).

C. Changes Made in This Interim Final Rule

In 10 CFR part 205, subpart W, DOE is removing and reserving sections 321, 328, and 329 in their entirety. DOE also is removing paragraphs (c) and (d) in section 322 and re-lettering paragraph (e) to now be paragraph (c).

In 10 CFR part 1021, DOE is removing the reference to CEQ NEPA implementing regulations from section 100, Purpose, and is merging in section 102(a), Applicability, to more concisely state the purpose of these regulations. DOE is renumbering the Definitions from section 104 to be section 101 and removing definitions that are no longer relevant to this part. DOE is renumbering section 410, Application of categorical exclusions, to be section 102, is updating references to other sections of the revised part 1021, and is removing references to the CEQ NEPA implementing regulations. DOE is removing the reference to CEQ NEPA implementing regulations from section 343(a), Emergency actions, and renumbering that paragraph as section 103. DOE is moving appendices A and B to subpart D of part 1021 to be appendices A and B to part 1021 and is updating references to other sections of the revised part 1021 throughout those appendices. DOE is removing all other sections of 10 CFR part 1021.

In the relocated 10 CFR part 1021, appendix A, DOE is modifying the title from Categorical Exclusions Applicable to General Agency Actions to Administrative and Routine Actions Excepted from NEPA Review. The actions in this list were formerly identified as categorical exclusions for DOE. NEPA does not apply to actions that are solely administrative and routine that are undertaken to support the normal conduct of DOE business. While such activities are Federal actions, they are not “major” and therefore not subject to NEPA. These can now be classified as actions where NEPA does not apply because they do not fall within the definition of “major

Federal action” in Section 110(10) of NEPA, 42 U.S.C. 4336e(10). These actions have been retained as appendix A for ease of reference and to avoid confusion.

II. Basis for Revising DOE’s NEPA Implementing Regulations

As stated previously, DOE relied on CEQ’s NEPA implementing regulations in promulgating its NEPA implementing regulations. President Carter originally directed CEQ to implement NEPA regulations via E.O. 11991. However, President Trump rescinded that Executive Order in E.O. 14154.⁴ As CEQ explained in its interim final rule rescinding its NEPA implementing regulations, the President removed CEQ’s prior asserted basis for issuing and maintaining its NEPA implementing regulations, and directed CEQ to rescind those regulations. Accordingly, CEQ concluded those regulations cannot stand.⁵ CEQ has accordingly repealed its NEPA regulations. *See Removal of National Environmental Policy Act Implementing Regulations*, (Feb. 25, 2025). That rule became effective on April 11, 2025. *See id.*

As explained previously, DOE’s existing NEPA implementing regulations were promulgated as a “supplement[.] . . . to be used in conjunction with,” 10 CFR 1021.100, the Council on Environmental Quality’s (CEQ’s) NEPA regulations, and DOE also “adopt[ed]” the CEQ’s regulations by incorporation.⁶ Subsequent revisions to the DOE regulations added additional language to supplement the CEQ NEPA implementing regulations in certain sections, but in others retained the original language from the CEQ NEPA implementing regulations. Within part 1021 there are numerous cross references to the CEQ NEPA implementing regulations. Because DOE’s regulations expressly adopt and repeatedly reference CEQ’s regulations, removal of the CEQ NEPA implementing regulations from the Code of Federal Regulations leaves DOE’s existing regulations hanging in air. They are now a “supplement . . . to be used in conjunction with” rules that no longer exist and that could not exist again under existing Executive Orders.

Moreover, under these circumstances, leaving DOE’s existing regulations on the books would create grave uncertainty and confusion in the application of the DOE NEPA regulations, in conflict with a directive

from the President. E.O. 14154 directs agencies to revise their NEPA implementing procedures to “prioritize efficiency and certainty.” Leaving DOE’s existing regulations on the books, “supplementing” CEQ’s nonexistent regulations, would obviously create confusion. This directive also explains in pertinent part the major part of the existing regulation that has been retained: As explained in Section I, DOE has determined that retaining its categorical exclusions as appendix B in regulation will avoid any uncertainty regarding the continued validity of its already-established categorical exclusions or the procedural mechanism through which DOE established them.

Where such categorical-exclusion-specific concerns do not prevail, however, DOE has decided that the flexibility to respond to new developments in this fast-evolving area of law, afforded by using non-codified procedures, outweighs the appeal of codifying its regulations going forward. Notably, in 1992, when DOE codified its existing procedures to “ensure that [they] are more accessible to the public,” 57 FR 15122; 55 FR 46444, the internet was in its infancy. Now, DOE can—and will—ensure that accessibility to the public by posting these procedures online, which removes the upside of codification. By contrast, not codifying its procedures will enable it to rapidly update these procedures in response to future court decisions (such as *Seven County*) or Presidential directives (such as E.O. 14301). The balance thus tips decisively toward using a non-regulatory, but publicly accessible, procedural document. Because rescinding DOE’s existing regulations without simultaneously adopting a replacement would likely cause uncertainty among regulated parties, these new procedures that DOE adopts have informed its decision to rescind most of its prior regulations.

DOE’s new NEPA implementing procedures are a more faithful implementation of the statute as amended in 2023 than its old procedures. They implement major structural features of the 2023 amendments, such as deadlines and page limits for environmental assessments and environmental impact statements, as directed at NEPA Section 107(g), and provide that DOE will complete preparation of these documents within the maximum length and on the timeline that Congress intends. They incorporate Congress’s definition of “major Federal action” and the exclusions thereto, as codified at NEPA Section 111(10). They incorporate Congress’s mandated procedure for

determining the appropriate level of review under NEPA, as codified in NEPA Section 106. They incorporate Congress’s direction with respect to establishment, adoption, and application of categorical exclusions, as codified at NEPA Section 111(10). They provide procedures governing project-sponsor-prepared environmental assessments and environmental impact statements, as directed at NEPA Section 107(f). And they incorporate Congress’s revision to the requirements for what an agency must address in its environmental impact statements, as codified at NEPA Section 102(2)(C), and Congress’s requirement that public notice and solicitation of comment be provided when issuing a notice of intent to prepare an environmental impact statement, as directed at NEPA Section 107(c). All of these are crucial features of Congress’s policy design and its purpose in the 2023 amendments that NEPA review be more efficient and certain.

Moreover, all of these respond to the President’s directive in E.O. 14154; and all of these reflect the Supreme Court’s recent and unequivocal statement that NEPA is a purely procedural statute. DOE is conscious of the Supreme Court’s admonition that NEPA review has grown out of all proportion to its origins of a “modest procedural requirement,” creating, “under the guise of just a little more process,” “[d]elay upon delay, so much so that the process seems to ‘borde[r] on the Kafkaesque.’” *Seven County*, 145 S. Ct. at 1513 (internal quotation omitted). These procedures, therefore, attempt to align NEPA with its Congressionally mandated dimensions, reflecting the guidance given also by the President and the Supreme Court, and making review under it faster, more flexible, and more efficient.

In reaching this decision, DOE acknowledges that third parties may claim to have reliance interests in DOE’s existing NEPA procedures. Moreover, as the Supreme Court has just explained, NEPA “is a purely procedural statute” that “imposes no substantive environmental obligations or restrictions.” *Seven County*, 145 S. Ct. at 1507. Any asserted reliance interests grounded in substantive environmental concerns, such interests are not in accord with the best meaning of the law and are entitled to “no . . . weight.” *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1914 (2020).

Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in *prospective*

⁴ E.O. 14154 at sec. 5(a).

⁵ 90 FR 10610.

⁶ See 10 CFR 1021.103.

procedures. To the extent such interests exist, DOE holds that they are “outweigh[ed]” by “other interests and policy concerns.” *Id.* Namely, the complex web of regulations that preexisted the 2023 amendments to NEPA and these new procedures repeatedly “led to more agency analysis of separate projects, more consideration of attenuated effects, more exploration of alternatives to proposed agency action, more speculation and consultation and estimation and litigation,” which in turn has meant that “[f]ewer projects make it to the finish line,” or even “to the starting line.” *Seven County*, 145 S. Ct. at 1513–1514. This has increased the cost of projects dramatically, “both for the agency preparing the EIS and for the builder of the project,” resulting in systemic harms to America’s infrastructure and economy. *Id.* at 1514. Correspondingly, the wholesale revision and simplification of this regime, effectuated by these Procedures, is necessary to ensure efficient and predictable reviews, with significant upsides for the economy and for projects of all sorts. This set of policy considerations drastically outweighs any claimed reliance interests in the preexisting procedures.

DOE has revised its NEPA implementing procedures to conform to the 2023 statutory amendments, to respond to President Trump’s direction in E.O. 14154 to, “[c]onsistent with applicable law, prioritize efficiency and certainty over any other objectives, including those of activist groups, that do not align with the policy goals set forth in section 2 of [that] order or that could otherwise add delays and ambiguity to the permitting process,” and to address the pathologies of the NEPA process and NEPA litigation as identified by the Supreme Court. Where DOE has retained an aspect of its preexisting NEPA implementing procedures, it is because that aspect is compatible with these guiding principles; where DOE has revised or removed an aspect, it is because that aspect is not so compatible.

III. Basis for Issuing an Interim Final Rule

A. Notice-and-Comment Rulemaking Is Not Required

DOE is repealing its prior procedures and practices for implementing NEPA, a “purely procedural statute” which “‘simply prescribes the necessary process’ for an agency’s environmental review of a project—a review that is, even in its most rigorous form, “only one input into an agency’s decision and

does not itself require any particular substantive outcome.” *Seven County*, 145 S. Ct. at 1511. “NEPA imposes no *substantive* constraints on the agency’s ultimate decision to build, fund, or approve a proposed project,” and “is relevant only to the question of whether an agency’s final decision . . . was reasonably explained.” *Id.* at 1511. As such, notice and comment procedures are not required because this revision falls within the APA exception for “rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A). DOE’s existing regulations do not dictate what outcomes such consideration must produce, nor do they impose binding legal obligations on private citizens. Rather, they prescribe how DOE will conduct its NEPA reviews: detailing the structure of environmental impact statements, specifying submission requirements, and directing the timing of public comment periods. These are procedural provisions, not substantive environmental ones. DOE recognized as much, indeed, even when codifying them: DOE was explicit that it was “issuing its NEPA Guidelines as regulations that will be published in the *Code of Federal Regulations*” to “ensure that its NEPA procedures are more accessible to the public,” and not because the agency had changed its mind that the procedures were just that, procedural. 57 FR 15122; 55 FR 46444. Indeed, both emphasized that “[t]he rule amends and codifies already existing policies and procedures for compliance with NEPA,” and contained no substantive changes that would impose obligations on private citizens. 57 FR 15144; 55 FR 46448. Thus, because procedural rules do not require notice and comment, they do not require notice and comment to be removed from the Code of Federal Regulations.

Just so, DOE’s new procedures will also be purely procedural, guiding the agency’s own compliance with NEPA. Indeed, it is hard to see how they could be otherwise, since the Supreme Court has recently repeatedly emphasized that “NEPA is a purely procedural statute.” *Seven County*, 145 S. Ct. at 1507, *see id.* at 1510 (“NEPA is purely procedural. . . . NEPA does not mandate particular results, but simply prescribes the necessary process for an agency’s environmental review of a project”) (internal quotation omitted); *id.* at 1511 (NEPA is a *purely procedural statute*’); *id.* at 1513 (NEPA is properly understood as “a modest procedural requirement”); *id.* at 1514 (“NEPA’s status as a purely procedural statute”); *see also id.* at 1507 (“Simply stated,

NEPA is a procedural cross-check, not a substantive roadblock.”). Procedures for implementing a purely procedural statute must be, by their nature, procedural rules.

Moreover, even if (and to the extent that) DOE’s regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy under 5 U.S.C. 553(b)(A). An interpretative rule provides an interpretation of a statute, rather than making discretionary policy choices that establish enforceable rights or obligations for regulated parties under delegated congressional authority. The definitions sections of both the old and new procedures, for instance, may be classified as such. General statements of policy provide notice of an agency’s intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. The prefatory sections of both the old and new procedures, for instance, may be classified as general statements of policy. Both of these types of agency action are expressly exempted from notice and comment by statute.

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

Moreover, DOE also finds that, to the extent that prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the need to expeditiously replace its existing rules satisfies the APA’s “good cause” exceptions 5 U.S.C. 553(b)(B), (d). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is “impracticable, unnecessary, or contrary to the public interest,” 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause, 5 U.S.C. 553(d)(3). As discussed in Sections I and II, previously, DOE’s prior rules were promulgated as a “supplement[] . . . to be used in conjunction with,” 10 CFR 1021.100, CEQ’s NEPA regulations, and DOE also “adopt[ed]” the CEQ’s regulations by incorporation. As such, DOE’s current rules are left hanging in air, supplementing a NEPA regime that no longer exists. DOE, thus far and as a temporary, emergency measure, has been continuing to operate under its prior procedures *as if* the CEQ NEPA regime still existed. This is not, however, tenable. As soon as proper procedures were available—*i.e.*, now—this makeshift regime needs to be rescinded immediately.

That being so, rescinding the old procedures immediately without replacing them would create a vacuum that would inflict immense uncertainty on agencies and regulated parties and potentially grind all projects under DOE's purview to a halt. So pairing the rescission with a new structure immediately is absolutely critical. Because of this need for speed and certainty, notice-and-comment is, to the extent it was required at all, impracticable and contrary to the public interest.

To the extent that public comment may inform DOE as to whether it has legal authority to make a different choice than the one it has taken in this interim final rule, DOE's solicitation of public comment for 30-days following the publication of the rule is intended to accommodate that possibility. But, to the extent that this interim final rule would otherwise require a proposal and solicitation of public comment, DOE's view is that the "good cause" exception (5 U.S.C. 553(b)(B)) pertains here. And though DOE seeks comments to obtain the public's views, such comments could not alter the legal realities—most notably the repeal of the CEQ's NEPA rules and the rescission of the E.O. that purported to authorize them—that create the swift *need* for such a change. DOE will consider comments submitted in response to this action and may address them when issuing a final rule, if warranted, after consideration of the comments received.

For the same reasons stated in the present section, above, DOE finds that "good cause" exists under 5 U.S.C. 553(d)(3) to waive the 30-day delay of the effective date that would otherwise be required. This IFR will accordingly be effective immediately.

C. DOE Solicits Comment

As explained previously, DOE believes comment is not required because its NEPA procedures were and are procedural and because, even if comment were required under the APA, good cause exists to forego it. Nevertheless, DOE has elected voluntarily to solicit comment. DOE is soliciting comment on this interim final rule and the accompanying procedural document, and may make further revisions to this action, if DOE's review of any comments submitted suggests that further revisions are warranted. Commenters have 30 days from the date of publication of this interim final rule to submit comments.

IV. Procedural Requirements

A. Executive Orders 12866 and 13563

E.O. 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), 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.

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) 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 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 regulatory action does constitute a "significant regulatory action" under E.O. 12866, as supplemented by E.O. 13563, and has reviewed this action.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment. Because a notice of proposed

rulemaking is not required for this action pursuant to 5 U.S.C. 553, or any other law, no regulatory flexibility analysis has been prepared for this interim final rule. See 5 U.S.C. 601(2), 603(a).

C. National Environmental Policy Act

NEPA does not require agencies to prepare a NEPA analysis before establishing or updating agency procedures for implementing NEPA. Agency NEPA implementing procedures are not themselves subject to NEPA.⁷ DOE has determined that this rule will not have a significant effect on the environment because it will not authorize any specific agency activity or commit resources to a project that may affect the environment. Therefore, DOE does not intend to conduct a NEPA analysis of this interim final rule.

D. Executive Order 13132

E.O. 13132, "Federalism", 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt state law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined the interim final rule and has determined that it does not preempt State law and does 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. No further action is required by E.O. 13132.

E. Executive Order 13175

Under E.O. 13175, "Consultation and Coordination with Indian Tribal Governments," 65 FR 67249 (Nov. 6, 2000), DOE may not issue a discretionary rule that has Tribal implications or that imposes substantial direct compliance costs on Indian Tribal governments. DOE has determined that this interim final rule will not have such effects and has concluded that E.O. 13175 does not apply to this interim final rule.

⁷ *Heartwood v. U.S. Forest Serv.*, 230 F.3d 947, 954–955 (7th Cir. 2000) (finding that neither NEPA nor the CEQ NEPA implementing regulations required the Forest Service to conduct an environmental assessment or an environmental impact statement prior to the promulgation of its procedures creating a categorical exclusion).

F. 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 OMB a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgated 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 (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed 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 interim final rule does not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

G. Unfunded Mandates Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and Tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include a regulation that would impose upon State, local, or Tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments, in the aggregate, or the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of the title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or Tribal governments, or the private sector, of \$100 million or more in any one year (adjusted annually for inflation). 2 U.S.C. 1532(a) and (b). Section 204 of that title requires each agency that proposed a rule containing a significant Federal intergovernmental mandate to

develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and Tribal governments. 2 U.S.C. 1534. This interim final rule does not result in the expenditure by State, local, and Tribal governments, in aggregate, or by the private sector of \$100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act

This interim final rule does not impose any new information collection burden that would require additional review or approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

I. Executive Orders 14154 and 14192

DOE has examined this interim final 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,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This rule is an E.O. 14192 deregulatory action.

J. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of this interim final rule prior to the effective date set forth at the outset of this interim final rule. The report will state that it has been determined that this interim final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

VI. Approval of the Office of the Secretary

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

List of Subjects*10 CFR Part 205*

Administrative practice and procedure; Classified information; Confidential business information; Environmental protection; Freedom of information; Hazardous waste; Nuclear energy; Nuclear materials; Nuclear power plants and reactors; Penalties; Reporting and recordkeeping requirements; Sex discrimination; Waste treatment and disposal.

10 CFR Part 1021

Administrative practice and procedure; Environmental impact

statements; Environmental protection; Natural resources.

Signing Authority

This document of the Department of Energy was signed on June 30, 2025, by Jeffrey Novak, Acting General Counsel, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 30, 2025.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE amends part 205 of chapter II and part 1021 of chapter X of title 10 of the Code of Federal Regulations as set forth below:

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

■ 1. The authority citation for part 205 is revised to read as follows:

Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Federal Power Act, 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; E.O. 14154, 90 FR 8353.

§ 205.321 [Removed and Reserved]

■ 2. Remove and reserve § 205.321.

§ 205.322 [Amended]

■ 3. Amend § 205.322 by removing paragraphs (c) and (d) and redesignating paragraph (e) as paragraph (c).

§ 205.328 [Removed and Reserved]

■ 4. Remove and reserve § 205.328.

§ 205.329 [Removed and Reserved]

■ 5. Remove and reserve § 205.329.

■ 6. Revise part 1021 to read as follows:

PART 1021—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

Sec.

1021.100 Purpose.

1021.101 Definitions.

1021.102 Application of categorical exclusions (categories of actions that normally do not require EAs or EISs).

1021.103 Emergency actions.

Appendix A to Part 1021

Administrative and Routine Actions

Excepted from NEPA Review

Appendix B to Part 1021

Categorical Exclusions Applicable to Specific Agency Actions

Authority: 42 U.S.C. 7101 *et seq.*; 42 U.S.C. 4321 *et seq.*; 50 U.S.C. 2401 *et seq.*

PART 1021—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

§ 1021.100 Purpose.

The purpose of this part is to establish certain procedures that the Department of Energy (DOE) shall use to comply with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4332(2)), as amended. This part applies to all Departmental Elements.

§ 1021.101 Definitions.

As used in these implementing procedures, terms have the meanings provided in NEPA section 111, 42 U.S.C. 4336e. In addition:

CERCLA-excluded petroleum and natural gas products means petroleum, including crude oil or any fraction thereof, that is not otherwise specifically listed or designated as a hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601.101(14)) and natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or of pipeline quality (or mixtures of natural gas and such synthetic gas).

Contaminant means a substance identified within the definition of contaminant in section 101(33) of CERCLA (42 U.S.C. 9601.101(33)).

Hazardous substance means a substance identified within the definition of hazardous substances in section 101(14) of CERCLA (42 U.S.C. 9601.101(14)). Radionuclides are hazardous substances through their listing under section 112 of the Clean Air Act (42 U.S.C. 7412) (40 CFR part 61, subpart H).

Pollutant means a substance identified within the definition of pollutant in section 101(33) of CERCLA (42 U.S.C. 9601.101(33)).

§ 1021.102 Application of categorical exclusions (categories of actions that normally do not require EAs or EISs).

(a) The actions listed in appendices A and B to this part are categories of actions that DOE has determined do not

normally have a significant effect on the human environment (categorical exclusions).

(b) To find that a proposal is excluded pursuant to a categorical exclusion, DOE shall determine the following:

(1) The proposal fits within a category of actions that is listed in appendix B to this part;

(2) There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal. Extraordinary circumstances are unique situations presented by specific proposals, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources; and

(c) All categorical exclusions may be applied by any organizational element of the Department of Energy. The sectional divisions in appendix B to this part are solely for purposes of organization of that appendix and are not intended to be limiting.

(d) A category of actions includes activities foreseeably necessary to proposals encompassed within the category of actions (such as award of implementing grants and contracts, site preparation, purchase and installation of equipment, and associated transportation activities).

(e) Categorical exclusion determinations for actions listed in appendix B shall be documented and made available to the public by posting online, generally within two weeks of the determination, unless additional time is needed in order to review and protect classified information, “confidential business information,” or other information that DOE would not disclose pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552). Posted categorical exclusion determinations shall not disclose classified information, “confidential business information,” or other information that DOE would not disclose pursuant to FOIA.

(f) Proposed recurring activities to be undertaken during a specified time period, such as routine maintenance activities for a year, may be addressed in a single categorical exclusion determination after considering the potential aggregated impacts.

(g) The following clarifications are provided to assist in the appropriate application of categorical exclusions that employ the terms or phrases:

(1) “Previously disturbed or developed” refers to land that has been

changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to non-native species or a managed state, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available.

(2) DOE considers terms such as “small” and “small-scale” in the context of the particular proposal, including its proposed location. In assessing whether a proposed action is small, in addition to the actual magnitude of the proposal, DOE considers factors such as industry norms, the relationship of the proposed action to similar types of development in the vicinity of the proposed action, and expected outputs of emissions or waste. When considering the physical size of a proposed facility, for example, DOE would review the surrounding land uses, the scale of the proposed facility relative to existing development, and the capacity of existing roads and other infrastructure to support the proposed action.

§ 1021.103 Emergency actions.

DOE may take an action without observing all provisions of DOE’s NEPA implementing procedures in emergency situations that demand immediate action. DOE shall consult with CEQ as soon as possible regarding alternative arrangements for emergency actions having significant environmental impacts. DOE shall document, including publishing a notice in the **Federal Register**, emergency actions covered by this paragraph within 30-days after such action occurs; this documentation shall identify any adverse impacts from the actions taken, further mitigation necessary, and any NEPA documents that may be required.

Appendix A to Part 1021—Administrative and Routine Actions Excepted From NEPA Review

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A1	Routine DOE business actions
A2	Clarifying or administrative contract actions
A3	Certain actions by Office of Hearings and Appeals
A4	Interpretations and rulings for existing regulations
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A9	Information gathering, analysis, and dissemination

- A10 Reports and recommendations on non-DOE legislation
- A11 Technical advice and assistance to organizations
- A12 Emergency preparedness planning
- A13 Procedural documents
- A14 Approval of technical exchange arrangements
- A15 International agreements for energy research and development

A1 Routine DOE Business Actions

Routine actions necessary to support the normal conduct of DOE business limited to administrative, financial, and personnel actions.

A2 Clarifying or Administrative Contract Actions

Contract interpretations, amendments, and modifications that are clarifying or administrative in nature.

A3 Certain Actions by Office of Hearings and Appeals

Adjustments, exceptions, exemptions, appeals and stays, modifications, or rescissions of orders issued by the Office of Hearings and Appeals.

A4 Interpretations and Rulings for Existing Regulations

Interpretations and rulings with respect to existing regulations, or modifications or rescissions of such interpretations and rulings.

A5 Interpretive Rulemakings With No Change in Environmental Effect

Rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended.

A6 Procedural Rulemakings

Rulemakings that are strictly procedural, including, but not limited to, rulemaking (under 48 CFR chapter 9) establishing procedures for technical and pricing proposals and establishing contract clauses and contracting practices for the purchase of goods and services, and rulemaking (under 10 CFR part 600) establishing application and review procedures for, and administration, audit, and closeout of, grants and cooperative agreements.

A7 [Reserved]

A8 Awards of Certain Contracts

Awards of contracts for technical support services, management and operation of a government-owned facility, and personal services.

A9 Information Gathering, Analysis, and Dissemination

Information gathering (including, but not limited to, literature surveys, inventories, site visits, and audits), data analysis (including, but not limited to, computer modeling), document preparation (including, but not limited to, conceptual design, feasibility studies, and analytical energy supply and demand studies), and information dissemination (including, but not limited to, document publication and distribution, and classroom training and informational

programs), but not including site characterization or environmental monitoring. (See also B3.1 of appendix B to this part.)

A10 Reports and Recommendations on Non-DOE Legislation

Reports and recommendations on legislation or rulemaking that are not proposed by DOE.

A11 Technical Advice and Assistance to Organizations

Technical advice and planning assistance to international, national, state, and local organizations.

A12 Emergency Preparedness Planning

Emergency preparedness planning activities, including, but not limited to, the designation of onsite evacuation routes.

A13 Procedural Documents

Administrative, organizational, or procedural Policies, Orders, Notices, Manuals, and Guides.

A14 Approval of Technical Exchange Arrangements

Approval of technical exchange arrangements for information, data, or personnel with other countries or international organizations (including, but not limited to, assistance in identifying and analyzing another country's energy resources, needs and options).

A15 International Agreements for Energy Research and Development

Approval of DOE participation in international "umbrella" agreements for cooperation in energy research and development activities that would not commit the U.S. to any specific projects or activities.

Appendix B to Part 1021—Categorical Exclusions Applicable to Specific Agency Actions

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B. Conditions That Are Integral Elements of the Categories of Actions in Appendix B

B1. Categorical Exclusions Applicable to Facility Operation

- B1.1 Changing rates and prices
- B1.2 Training exercises and simulations
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- B1.4 Air conditioning systems for existing equipment
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- B1.6 Tanks and equipment to control runoff and spills
- B1.7 Electronic equipment
- B1.8 Screened water intake and outflow structures
- B1.9 Airway safety markings and painting
- B1.10 Onsite storage of activated material
- B1.11 Fencing
- B1.12 Detonation or burning of explosives or propellants after testing
- B1.13 Pathways, short access roads, and rail lines
- B1.14 Refueling of nuclear reactors
- B1.15 Support buildings

- B1.16 Asbestos removal
- B1.17 Polychlorinated biphenyl removal
- B1.18 Water supply wells
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B2. Categorical Exclusions Applicable to Safety and Health

- B2.1 Workplace enhancements
- B2.2 Building and equipment instrumentation
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- B2.4 Equipment qualification
- B2.5 Facility safety and environmental improvements
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B3. Categorical Exclusions Applicable to Site Characterization, Monitoring, and General Research

- B3.1 Site characterization and environmental monitoring
- B3.2 Aviation activities
- B3.3 Research related to conservation of fish, wildlife, and cultural resources
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- B5.17 Solar thermal systems
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- B5.20 Biomass power plants
- B5.21 Methane gas recovery and utilization systems
- B5.22 Alternative fuel vehicle fueling stations
- B5.23 Electric vehicle charging stations
- B5.24 Drop-in hydroelectric systems
- B5.25 Small-scale renewable energy research and development and pilot projects in aquatic environments

B6. Categorical Exclusions Applicable to Environmental Restoration and Waste Management Activities

- B6.1 Cleanup actions
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B7. Categorical Exclusions Applicable to International Activities

- B7.1 Emergency measures under the International Energy Program
- B7.2 Import and export of special nuclear or isotopic materials

B. Conditions That Are Integral Elements of the Categories of Actions in Appendix B

The categories of actions listed below include the following conditions as integral elements of the categories of actions. To fit within the categories of actions listed below, a proposal must be one that would not:

- (1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders;
- (2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities;
- (3) Disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases;
- (4) Have the potential to cause significant impacts on environmentally sensitive resources. An environmentally sensitive resource is typically a resource that has been identified as needing protection through Executive Order, statute, or regulation by Federal, state, or local government, or a Federally recognized Indian tribe. An action may be categorically excluded if, although sensitive resources are present, the action would not have the potential to cause significant impacts on those resources (such as construction of a building with its foundation well above a sole-source aquifer or upland surface soil removal on a site that has wetlands). Environmentally sensitive resources include, but are not limited to:
 - (i) Property (such as sites, buildings, structures, and objects) of historic, archeological, or architectural significance designated by a Federal, state, or local government, Federally recognized Indian tribe, or Native Hawaiian organization, or property determined to be eligible for listing on the National Register of Historic Places;
 - (ii) Federally-listed threatened or endangered species or their habitat (including critical habitat) or Federally-proposed or candidate species or their habitat

(Endangered Species Act); state-listed or state-proposed endangered or threatened species or their habitat; Federally-protected marine mammals and Essential Fish Habitat (Marine Mammal Protection Act; Magnuson-Stevens Fishery Conservation and Management Act); and otherwise Federally-protected species (such as the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act);

(iii) Floodplains and wetlands (as defined in 10 CFR 1022.4, "Compliance with Floodplain and Wetland Environmental Review Requirements: Definitions," or its successor);

(iv) Areas having a special designation such as Federally- and state-designated wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, state and Federal wildlife refuges, scenic areas (such as National Scenic and Historic Trails or National Scenic Areas), and marine sanctuaries;

(v) Prime or unique farmland, or other farmland of statewide or local importance, as defined at 7 CFR 658.2(a), "Farmland Protection Policy Act: Definitions," or its successor;

(vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and

(vii) Tundra, coral reefs, or rain forests; or

(5) Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those of the Department of Agriculture, the Environmental Protection Agency, and the National Institutes of Health.

B1. Categorical Exclusions Applicable to Facility Operation**B1.1 Changing Rates and Prices**

Changing rates for services or prices for products marketed by parts of DOE other than Power Marketing Administrations, and approval of rate or price changes for non-DOE entities, that are consistent with the change in the implicit price deflator for the Gross Domestic Product published by the Department of Commerce, during the period since the last rate or price change.

B1.2 Training Exercises and Simulations

Training exercises and simulations (including, but not limited to, firing-range training, small-scale and short-duration force-on-force exercises, emergency response training, fire fighter and rescue training, and decontamination and spill cleanup training) conducted under appropriately controlled conditions and in accordance with applicable requirements.

B1.3 Routine Maintenance

Routine maintenance activities and custodial services for buildings, structures, rights-of-way, infrastructures (including, but not limited to, pathways, roads, and

railroads), vehicles and equipment, and localized vegetation and pest control, during which operations may be suspended and resumed, provided that the activities would be conducted in a manner in accordance with applicable requirements. Custodial services are activities to preserve facility appearance, working conditions, and sanitation (such as cleaning, window washing, lawn mowing, trash collection, painting, and snow removal). Routine maintenance activities, corrective (that is, repair), preventive, and predictive, are required to maintain and preserve buildings, structures, infrastructures, and equipment in a condition suitable for a facility to be used for its designated purpose. Such maintenance may occur as a result of severe weather (such as hurricanes, floods, and tornados), wildfires, and other such events. Routine maintenance may result in replacement to the extent that replacement is in-kind and is not a substantial upgrade or improvement. In-kind replacement includes installation of new components to replace outmoded components, provided that the replacement does not result in a significant change in the expected useful life, design capacity, or function of the facility. Routine maintenance does not include replacement of a major component that significantly extends the originally intended useful life of a facility (for example, it does not include the replacement of a reactor vessel near the end of its useful life). Routine maintenance activities include, but are not limited to:

- (a) Repair or replacement of facility equipment, such as lathes, mills, pumps, and presses;
- (b) Door and window repair or replacement;
- (c) Wall, ceiling, or floor repair or replacement;
- (d) Reroofing;
- (e) Plumbing, electrical utility, lighting, and telephone service repair or replacement;
- (f) Routine replacement of high-efficiency particulate air filters;
- (g) Inspection and/or treatment of currently installed utility poles;
- (h) Repair of road embankments;
- (i) Repair or replacement of fire protection sprinkler systems;
- (j) Road and parking area resurfacing, including construction of temporary access to facilitate resurfacing, and scraping and grading of unpaved surfaces;
- (k) Erosion control and soil stabilization measures (such as reseeding, gabions, grading, and revegetation);
- (l) Surveillance and maintenance of surplus facilities in accordance with DOE Order 435.1, "Radioactive Waste Management," or its successor;
- (m) Repair and maintenance of transmission facilities, such as replacement of conductors of the same nominal voltage, poles, circuit breakers, transformers, capacitors, crossarms, insulators, and downed powerlines, in accordance, where appropriate, with 40 CFR part 761 (Polychlorinated Biphenyls Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions) or its successor;
- (n) Routine testing and calibration of facility components, subsystems, or portable

equipment (such as control valves, in-core monitoring devices, transformers, capacitors, monitoring wells, lysimeters, weather stations, and flumes);

(o) Routine decontamination of the surfaces of equipment, rooms, hot cells, or other interior surfaces of buildings (by such activities as wiping with rags, using strippable latex, and minor vacuuming), and removal of contaminated intact equipment and other material (not including spent nuclear fuel or special nuclear material in nuclear reactors); and

(p) Removal of debris.

B1.4 Air Conditioning Systems for Existing Equipment

Installation or modification of air conditioning systems required for temperature control for operation of existing equipment.

B1.5 Existing Steam Plants and Cooling Water Systems

Minor improvements to existing steam plants and cooling water systems (including, but not limited to, modifications of existing cooling towers and ponds), provided that the improvements would not: (1) Create new sources of water or involve new receiving waters; (2) have the potential to significantly alter water withdrawal rates; (3) exceed the permitted temperature of discharged water; or (4) increase introductions of, or involve new introductions of, hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products.

B1.6 Tanks and Equipment To Control Runoff and Spills

Installation or modification of retention tanks or small (normally under one acre) basins and associated piping and pumps for existing operations to control runoff or spills (such as under 40 CFR part 112). Modifications include, but are not limited to, installing liners or covers. (See also B1.33 of this appendix.)

B1.7 Electronic Equipment

Acquisition, installation, operation, modification, and removal of electricity transmission control and monitoring devices for grid demand and response, communication systems, data processing equipment, and similar electronic equipment.

B1.8 Screened Water Intake and Outflow Structures

Modifications to screened water intake and outflow structures such that intake velocities and volumes and water effluent quality and volumes are consistent with existing permit limits.

B1.9 Airway Safety Markings and Painting

Placement of airway safety markings on, painting of, and repair and in-kind replacement of lighting on powerlines and antenna structures, wind turbines, and similar structures in accordance with applicable requirements (such as Federal Aviation Administration standards).

B1.10 Onsite Storage of Activated Material

Routine, onsite storage at an existing facility of activated equipment and material (including, but not limited to, lead) used at that facility, to allow reuse after decay of radioisotopes with short half-lives.

B1.11 Fencing

Installation of fencing, including, but not limited to border marking, that would not have the potential to significantly impede wildlife population movement (including migration) or surface water flow.

B1.12 Detonation or Burning of Explosives or Propellants After Testing

Outdoor detonation or burning of explosives or propellants that failed (duds), were damaged (such as by fracturing), or were otherwise not consumed in testing. Outdoor detonation or burning would be in areas designated and routinely used for those purposes under existing applicable permits issued by Federal, state, and local authorities (such as a permit for a RCRA miscellaneous unit (40 CFR part 264, subpart X)).

B1.13 Pathways, Short Access Roads, and Rail Lines

Construction, acquisition, and relocation, consistent with applicable right-of-way conditions and approved land use or transportation improvement plans, of pedestrian walkways and trails, bicycle paths, small outdoor fitness areas, and short access roads and rail lines (such as branch and spur lines).

B1.14 Refueling of Nuclear Reactors

Refueling of operating nuclear reactors, during which operations may be suspended and then resumed.

B1.15 Support Buildings

Siting, construction or modification, and operation of support buildings and support structures (including, but not limited to, trailers and prefabricated and modular buildings) within or contiguous to an already developed area (where active utilities and currently used roads are readily accessible). Covered support buildings and structures include, but are not limited to, those for office purposes; parking; cafeteria services; education and training; visitor reception; computer and data processing services; health services or recreation activities; routine maintenance activities; storage of supplies and equipment for administrative services and routine maintenance activities; security (such as security posts); fire protection; small-scale fabrication (such as machine shop activities), assembly, and testing of non-nuclear equipment or components; and similar support purposes, but exclude facilities for nuclear weapons activities and waste storage activities, such as activities covered in B1.10, B1.29, B1.35, B2.6, B6.2, B6.4, B6.5, B6.6, and B6.10 of this appendix.

B1.16 Asbestos Removal

Removal of asbestos-containing materials from buildings in accordance with applicable requirements (such as 40 CFR part 61, "National Emission Standards for Hazardous Air Pollutants"; 40 CFR part 763, "Asbestos";

29 CFR part 1910, subpart I, “Personal Protective Equipment”; and 29 CFR part 1926, “Safety and Health Regulations for Construction”; and appropriate state and local requirements, including certification of removal contractors and technicians).

B1.17 Polychlorinated Biphenyl Removal

Removal of polychlorinated biphenyl (PCB)-containing items (including, but not limited to, transformers and capacitors), PCB-containing oils flushed from transformers, PCB-flushing solutions, and PCB-containing spill materials from buildings or other aboveground locations in accordance with applicable requirements (such as 40 CFR part 761).

B1.18 Water Supply Wells

Siting, construction, and operation of additional water supply wells (or replacement wells) within an existing well field, or modification of an existing water supply well to restore production, provided that there would be no drawdown other than in the immediate vicinity of the pumping well, and the covered actions would not have the potential to cause significant long-term decline of the water table, and would not have the potential to cause significant degradation of the aquifer from the new or replacement well.

B1.19 Microwave, Meteorological, And Radio Towers

Siting, construction, modification, operation, and removal of microwave, radio communication, and meteorological towers and associated facilities, provided that the towers and associated facilities would not be in a governmentally designated scenic area (see B(4)(iv) of this appendix) unless otherwise authorized by the appropriate governmental entity.

B1.20 Protection of Cultural Resources, Fish and Wildlife Habitat

Small-scale activities undertaken to protect cultural resources (such as fencing, labeling, and flagging) or to protect, restore, or improve fish and wildlife habitat, fish passage facilities (such as fish ladders and minor diversion channels), or fisheries. Such activities would be conducted in accordance with an existing natural or cultural resource plan, if any.

B1.21 Noise Abatement

Noise abatement measures (including, but not limited to, construction of noise barriers and installation of noise control materials).

B1.22 Relocation of Buildings

Relocation of buildings (including, but not limited to, trailers and prefabricated buildings) to an already developed area (where active utilities and currently used roads are readily accessible).

B1.23 Demolition and Disposal of Buildings

Demolition and subsequent disposal of buildings, equipment, and support structures (including, but not limited to, smoke stacks and parking lot surfaces), provided that there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment.

B1.24 Property Transfers

Transfer, lease, disposition, or acquisition of interests in personal property (including, but not limited to, equipment and materials) or real property (including, but not limited to, permanent structures and land), provided that under reasonably foreseeable uses (1) there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment and (2) the covered actions would not have the potential to cause a significant change in impacts from before the transfer, lease, disposition, or acquisition of interests.

B1.25 Real Property Transfers for Cultural Resources Protection, Habitat Preservation, and Wildlife Management

Transfer, lease, disposition, or acquisition of interests in land and associated buildings for cultural resources protection, habitat preservation, or fish and wildlife management, provided that there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment.

B1.26 Small Water Treatment Facilities

Siting, construction, expansion, modification, replacement, operation, and decommissioning of small (total capacity less than approximately 250,000 gallons per day) wastewater and surface water treatment facilities whose liquid discharges are externally regulated, and small potable water and sewage treatment facilities.

B1.27 Disconnection of Utilities

Activities that are required for the disconnection of utility services (including, but not limited to, water, steam, telecommunications, and electrical power) after it has been determined that the continued operation of these systems is not needed for safety.

B1.28 Placing a Facility in an Environmentally Safe Condition

Minor activities that are required to place a facility in an environmentally safe condition where there is no proposed use for the facility. These activities would include, but are not limited to, reducing surface contamination, and removing materials, equipment or waste (such as final defueling of a reactor, where there are adequate existing facilities for the treatment, storage, or disposal of the materials, equipment or waste). These activities would not include conditioning, treatment, or processing of spent nuclear fuel, high-level waste, or special nuclear materials.

B1.29 Disposal Facilities for Construction and Demolition Waste

Siting, construction, expansion, modification, operation, and decommissioning of small (less than approximately 10 acres) solid waste disposal facilities for construction and demolition waste, in accordance with applicable requirements (such as 40 CFR part 257, “Criteria for Classification of Solid Waste Disposal Facilities and Practices,” and 40 CFR part 61, “National Emission Standards

for Hazardous Air Pollutants”) that would not release substances at a level, or in a form, that could pose a threat to public health or the environment.

B1.30 Transfer Actions

Transfer actions, in which the predominant activity is transportation, provided that (1) the receipt and storage capacity and management capability for the amount and type of materials, equipment, or waste to be moved already exists at the receiving site and (2) all necessary facilities and operations at the receiving site are already permitted, licensed, or approved, as appropriate. Such transfers are not regularly scheduled as part of ongoing routine operations.

B1.31 Installation or Relocation of Machinery and Equipment

Installation or relocation and operation of machinery and equipment (including, but not limited to, laboratory equipment, electronic hardware, manufacturing machinery, maintenance equipment, and health and safety equipment), provided that uses of the installed or relocated items are consistent with the general missions of the receiving structure. Covered actions include modifications to an existing building, within or contiguous to a previously disturbed or developed area, that are necessary for equipment installation and relocation. Such modifications would not appreciably increase the footprint or height of the existing building or have the potential to cause significant changes to the type and magnitude of environmental impacts.

B1.32 Traffic Flow Adjustments

Traffic flow adjustments to existing roads (including, but not limited to, stop sign or traffic light installation, adjusting direction of traffic flow, and adding turning lanes), and road adjustments (including, but not limited to, widening and realignment) that are within an existing right-of-way and consistent with approved land use or transportation improvement plans.

B1.33 Stormwater Runoff Control

Design, construction, and operation of control practices to reduce stormwater runoff and maintain natural hydrology. Activities include, but are not limited to, those that reduce impervious surfaces (such as vegetative practices and use of porous pavements), best management practices (such as silt fences, straw wattles, and fiber rolls), and use of green infrastructure or other low impact development practices (such as cisterns and green roofs).

B1.34 Lead-Based Paint Containment, Removal, and Disposal

Containment, removal, and disposal of lead-based paint in accordance with applicable requirements (such as provisions relating to the certification of removal contractors and technicians at 40 CFR part 745, “Lead-Based Paint Poisoning Prevention In Certain Residential Structures”).

B1.35 Drop-Off, Collection, and Transfer Facilities for Recyclable Materials

Siting, construction, modification, and operation of recycling or compostable

material drop-off, collection, and transfer stations on or contiguous to a previously disturbed or developed area and in an area where such a facility would be consistent with existing zoning requirements. The stations would have appropriate facilities and procedures established in accordance with applicable requirements for the handling of recyclable or compostable materials and household hazardous waste (such as paint and pesticides). Except as specified above, the collection of hazardous waste for disposal and the processing of recyclable or compostable materials are not included in this category of actions.

B1.36 Determinations of Excess Real Property

Determinations that real property is excess to the needs of DOE and, in the case of acquired real property, the subsequent reporting of such determinations to the General Services Administration or, in the case of lands withdrawn or otherwise reserved from the public domain, the subsequent filing of a notice of intent to relinquish with the Bureau of Land Management, Department of the Interior. Covered actions would not include disposal of real property.

B2. Categorical Exclusions Applicable to Safety and Health

B2.1 Workplace Enhancements

Modifications within or contiguous to an existing structure, in a previously disturbed or developed area, to enhance workplace habitability (including, but not limited to, installation or improvements to lighting, radiation shielding, or heating/ventilating/air conditioning and its instrumentation, and noise reduction).

B2.2 Building and Equipment Instrumentation

Installation of, or improvements to, building and equipment instrumentation (including, but not limited to, remote control panels, remote monitoring capability, alarm and surveillance systems, control systems to provide automatic shutdown, fire detection and protection systems, water consumption monitors and flow control systems, announcement and emergency warning systems, criticality and radiation monitors and alarms, and safeguards and security equipment).

B2.3 Personnel Safety and Health Equipment

Installation of, or improvements to, equipment for personnel safety and health (including, but not limited to, eye washes, safety showers, radiation monitoring devices, fumehoods, and associated collection and exhaust systems), provided that the covered actions would not have the potential to cause a significant increase in emissions.

B2.4 Equipment Qualification

Activities undertaken to (1) qualify equipment for use or improve systems reliability or (2) augment information on safety-related system components. These activities include, but are not limited to, transportation container qualification testing,

crane and lift-gear certification or recertification testing, high efficiency particulate air filter testing and certification, stress tests (such as "burn-in" testing of electrical components and leak testing), and calibration of sensors or diagnostic equipment.

B2.5 Facility Safety and Environmental Improvements

Safety and environmental improvements of a facility (including, but not limited to, replacement and upgrade of facility components) that do not result in a significant change in the expected useful life, design capacity, or function of the facility and during which operations may be suspended and then resumed. Improvements include, but are not limited to, replacement/upgrade of control valves, in-core monitoring devices, facility air filtration systems, or substation transformers or capacitors; addition of structural bracing to meet earthquake standards and/or sustain high wind loading; and replacement of aboveground or belowground tanks and related piping, provided that there is no evidence of leakage, based on testing in accordance with applicable requirements (such as 40 CFR part 265, "Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities" and 40 CFR part 280, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks"). These actions do not include rebuilding or modifying substantial portions of a facility (such as replacing a reactor vessel).

B2.6 Recovery of Radioactive Sealed Sources

Recovery of radioactive sealed sources and sealed source-containing devices from domestic or foreign locations provided that (1) the recovered items are transported and stored in compliant containers, and (2) the receiving site has sufficient existing storage capacity and all required licenses, permits, and approvals.

B3. Categorical Exclusions Applicable to Site Characterization, Monitoring, and General Research

B3.1 Site Characterization and Environmental Monitoring

Site characterization and environmental monitoring (including, but not limited to, siting, construction, modification, operation, and dismantlement and removal or otherwise proper closure (such as of a well) of characterization and monitoring devices, and siting, construction, and associated operation of a small-scale laboratory building or renovation of a room in an existing building for sample analysis). Such activities would be designed in conformance with applicable requirements and use best management practices to limit the potential effects of any resultant ground disturbance. Covered activities include, but are not limited to, site characterization and environmental monitoring under CERCLA and RCRA. (This category of actions excludes activities in aquatic environments. See B3.16 of this appendix for such activities.) Specific activities include, but are not limited to:

(a) Geological, geophysical (such as gravity, magnetic, electrical, seismic, radar, and temperature gradient), geochemical, and engineering surveys and mapping, and the establishment of survey marks. Seismic techniques would not include large-scale reflection or refraction testing;

(b) Installation and operation of field instruments (such as stream-gauging stations or flow-measuring devices, telemetry systems, geochemical monitoring tools, and geophysical exploration tools);

(c) Drilling of wells for sampling or monitoring of groundwater or the vadose (unsaturated) zone, well logging, and installation of water-level recording devices in wells;

(d) Aquifer and underground reservoir response testing;

(e) Installation and operation of ambient air monitoring equipment;

(f) Sampling and characterization of water, soil, rock, or contaminants (such as drilling using truck- or mobile- scale equipment, and modification, use, and plugging of boreholes);

(g) Sampling and characterization of water effluents, air emissions, or solid waste streams;

(h) Installation and operation of meteorological towers and associated activities (such as assessment of potential wind energy resources);

(i) Sampling of flora or fauna; and

(j) Archeological, historic, and cultural resource identification in compliance with 36 CFR part 800 and 43 CFR part 7.

B3.2 Aviation Activities

Aviation activities for survey, monitoring, or security purposes that comply with Federal Aviation Administration regulations.

B3.3 Research Related to Conservation of Fish, Wildlife, and Cultural Resources

Field and laboratory research, inventory, and information collection activities that are directly related to the conservation of fish and wildlife resources or to the protection of cultural resources, provided that such activities would not have the potential to cause significant impacts on fish and wildlife habitat or populations or to cultural resources.

B3.4 Transport Packaging Tests for Radioactive or Hazardous Material

Drop, puncture, water-immersion, thermal, and fire tests of transport packaging for radioactive or hazardous materials to certify that designs meet the applicable requirements (such as 49 CFR 173.411 and 173.412 and 10 CFR 71.73).

B3.5 Tank Car Tests

Tank car tests under 49 CFR part 179 (including, but not limited to, tests of safety relief devices, pressure regulators, and thermal protection systems).

B3.6 Small-Scale Research and Development, Laboratory Operations, and Pilot Projects

Siting, construction, modification, operation, and decommissioning of facilities for small-scale research and development projects; conventional laboratory operations

(such as preparation of chemical standards and sample analysis); and small-scale pilot projects (generally less than 2 years) frequently conducted to verify a concept before demonstration actions, provided that construction or modification would be within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Not included in this category are demonstration actions, meaning actions that are undertaken at a scale to show whether a technology would be viable on a larger scale and suitable for commercial deployment.

B3.7 New Terrestrial Infill Exploratory and Experimental Wells

Siting, construction, and operation of new terrestrial infill exploratory and experimental (test) wells, for either extraction or injection use, in a locally characterized geological formation in a field that contains existing operating wells, properly abandoned wells, or unminable coal seams containing natural gas, provided that the site characterization has verified a low potential for seismicity, subsidence, and contamination of freshwater aquifers, and the actions are otherwise consistent with applicable best practices and DOE protocols, including those that protect against uncontrolled releases of harmful materials. Such wells may include those for brine, carbon dioxide, coalbed methane, gas hydrate, geothermal, natural gas, and oil. Uses for carbon sequestration wells include, but are not limited to, the study of saline formations, enhanced oil recovery, and enhanced coalbed methane extraction.

B3.8 Outdoor Terrestrial Ecological and Environmental Research

Outdoor terrestrial ecological and environmental research in a small area (generally less than 5 acres), including, but not limited to, siting, construction, and operation of a small-scale laboratory building or renovation of a room in an existing building for associated analysis. Such activities would be designed in conformance with applicable requirements and use best management practices to limit the potential effects of any resultant ground disturbance.

B3.9 Projects To Reduce Emissions and Waste Generation

Projects to reduce emissions and waste generation at existing fossil or alternative fuel combustion or utilization facilities, provided that these projects would not have the potential to cause a significant increase in the quantity or rate of air emissions. For this category of actions, "fuel" includes, but is not limited to, coal, oil, natural gas, hydrogen, syngas, and biomass; but "fuel" does not include nuclear fuel. Covered actions include, but are not limited to:

(a) Test treatment of the throughput product (solid, liquid, or gas) generated at an existing and fully operational fuel combustion or utilization facility;

(b) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that requires only minor modification to the existing structures at an existing fuel combustion or utilization

facility, for which the existing use remains essentially unchanged;

(c) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that involves no permanent change in the quantity or quality of fuel burned or used and involves no permanent change in the capacity factor of the fuel combustion or utilization facility; and

(d) Addition or modification of equipment for capture and control of carbon dioxide or other regulated substances, provided that adequate infrastructure is in place to manage such substances.

B3.10 Particle Accelerators

Siting, construction, modification, operation, and decommissioning of particle accelerators, including electron beam accelerators, with primary beam energy less than approximately 100 million electron volts (MeV) and average beam power less than approximately 250 kilowatts (kW), and associated beamlines, storage rings, colliders, and detectors, for research and medical purposes (such as proton therapy), and isotope production, within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible), or internal modification of any accelerator facility regardless of energy, that does not increase primary beam energy or current. In cases where the beam energy exceeds 100 MeV, the average beam power must be less than 250 kW, so as not to exceed an average current of 2.5 milliamperes (mA).

B3.11 Outdoor Tests and Experiments on Materials and Equipment Components

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

B3.12 Microbiological and Biomedical Facilities

Siting, construction, modification, operation, and decommissioning of microbiological and biomedical diagnostic, treatment and research facilities (excluding Biosafety Level-3 and Biosafety Level-4), in accordance with applicable requirements and best practices (such as Biosafety in Microbiological and Biomedical Laboratories, 5th Edition, Dec. 2009, U.S. Department of Health and Human Services) including, but not limited to, laboratories, treatment areas, offices, and storage areas, within or

contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Operation may include the purchase, installation, and operation of biomedical equipment (such as commercially available cyclotrons that are used to generate radioisotopes and radiopharmaceuticals, and commercially available biomedical imaging and spectroscopy instrumentation).

B3.13 Magnetic Fusion Experiments

Performing magnetic fusion experiments that do not use tritium as fuel, within existing facilities (including, but not limited to, necessary modifications).

B3.14 Small-Scale Educational Facilities

Siting, construction, modification, operation, and decommissioning of small-scale educational facilities (including, but not limited to, conventional teaching laboratories, libraries, classroom facilities, auditoriums, museums, visitor centers, exhibits, and associated offices) within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Operation may include, but is not limited to, purchase, installation, and operation of equipment (such as audio/visual and laboratory equipment) commensurate with the educational purpose of the facility.

B3.15 Small-Scale Indoor Research and Development Projects Using Nanoscale Materials

Siting, construction, modification, operation, and decommissioning of facilities for indoor small-scale research and development projects and small-scale pilot projects using nanoscale materials in accordance with applicable requirements (such as engineering, worker safety, procedural, and administrative regulations) necessary to ensure the containment of any hazardous materials. Construction and modification activities would be within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible).

B3.16 Research Activities in Aquatic Environments

Small-scale, temporary surveying, site characterization, and research activities in aquatic environments, limited to:

(a) Acquisition of rights-of-way, easements, and temporary use permits;

(b) Installation, operation, and removal of passive scientific measurement devices, including, but not limited to, antennae, tide gauges, flow testing equipment for existing wells, weighted hydrophones, salinity measurement devices, and water quality measurement devices;

(c) Natural resource inventories, data and sample collection, environmental monitoring, and basic and applied research, excluding

(1) large-scale vibratory coring techniques and

(2) seismic activities other than passive techniques; and

(d) Surveying and mapping.

These activities would be conducted in accordance with, where applicable, an

approved spill prevention, control, and response plan and would incorporate appropriate control technologies and best management practices. None of the activities listed above would occur within the boundary of an established marine sanctuary or wildlife refuge, a governmentally proposed marine sanctuary or wildlife refuge, or a governmentally recognized area of high biological sensitivity, unless authorized by the agency responsible for such refuge, sanctuary, or area (or after consultation with the responsible agency, if no authorization is required). If the proposed activities would occur outside such refuge, sanctuary, or area and if the activities would have the potential to cause impacts within such refuge, sanctuary, or area, then the responsible agency shall be consulted in order to determine whether authorization is required and whether such activities would have the potential to cause significant impacts on such refuge, sanctuary, or area. Areas of high biological sensitivity include, but are not limited to, areas of known ecological importance, whale and marine mammal mating and calving/pupping areas, and fish and invertebrate spawning and nursery areas recognized as being limited or unique and vulnerable to perturbation; these areas can occur in bays, estuaries, near shore, and far offshore, and may vary seasonally. No permanent facilities or devices would be constructed or installed. Covered actions do not include drilling of resource exploration or extraction wells.

B4. Categorical Exclusions Applicable to Electrical Power and Transmission

B4.1 Contracts, Policies, and Marketing and Allocation Plans for Electric Power

Establishment and implementation of contracts, policies, and marketing and allocation plans related to electric power acquisition that involve only the use of the existing transmission system and existing generation resources operating within their normal operating limits.

B4.2 Export of Electric Energy

Export of electric energy as provided by Section 202(e) of the Federal Power Act over existing transmission systems or using transmission system changes that are themselves categorically excluded.

B4.3 Electric Power Marketing Rate Changes

Rate changes for electric power, power transmission, and other products or services provided by a Power Marketing Administration that are based on a change in revenue requirements if the operations of generation projects would remain within normal operating limits.

B4.4 Power Marketing Services and Activities

Power marketing services and power management activities (including, but not limited to, storage, load shaping and balancing, seasonal exchanges, and other similar activities), provided that the operations of generating projects would remain within normal operating limits. (See B4.14 of this appendix for energy storage systems.)

B4.5 Temporary Adjustments to River Operations

Temporary adjustments to river operations to accommodate day-to-day river fluctuations, power demand changes, fish and wildlife conservation program requirements, and other external events, provided that the adjustments would occur within the existing operating constraints of the particular hydrosystem operation.

B4.6 Additions and Modifications to Transmission Facilities

Additions or modifications to electric power transmission facilities within a previously disturbed or developed facility area. Covered activities include, but are not limited to, switchyard rock grounding upgrades, secondary containment projects, paving projects, seismic upgrading, tower modifications, load shaping projects (such as reducing energy use during periods of peak demand), changing insulators, and replacement of poles, circuit breakers, conductors, transformers, and crossarms. (See B4.14 of this appendix for energy storage systems.)

B4.7 Fiber Optic Cable

Adding fiber optic cables to transmission facilities or burying fiber optic cable in existing powerline or pipeline rights-of-way. Covered actions may include associated vaults and pulling and tensioning sites outside of rights-of-way in nearby previously disturbed or developed areas.

B4.8 Electricity Transmission Agreements

New electricity transmission agreements, and modifications to existing transmission arrangements, to use a transmission facility of one system to transfer power of and for another system, provided that no new generation projects would be involved and no physical changes in the transmission system would be made beyond the previously disturbed or developed facility area.

B4.9 Multiple Use of Powerline Rights-of-Way

Granting or denying requests for multiple uses of a transmission facility's rights-of-way (including, but not limited to, grazing permits and crossing agreements for electric lines, water lines, natural gas pipelines, communications cables, roads, and drainage culverts).

B4.10 Removal of Electric Transmission Facilities

Deactivation, dismantling, and removal of electric transmission facilities (including, but not limited to, electric powerlines, substations, and switching stations) and abandonment and restoration of rights-of-way (including, but not limited to, associated access roads).

B4.11 Electric Power Substations and Interconnection Facilities

Construction or modification of electric power substations or interconnection facilities (including, but not limited to, switching stations and support facilities).

B4.12 Construction of Powerlines

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

B4.13 Upgrading and Rebuilding Existing Powerlines

Upgrading or rebuilding existing electric powerlines, which may involve relocations of small segments of the powerlines within an existing powerline right-of-way or within otherwise previously disturbed or developed lands (as discussed at 10 CFR 1021.102(g)(1)). Upgrading or rebuilding existing electric powerlines also may involve widening an existing powerline right-of-way to meet current electrical standards if the widening remains within previously disturbed or developed lands and only extends into a small area beyond such lands as needed to comply with applicable electrical standards. Covered actions would be in accordance with applicable requirements, including the integral elements listed at the start of appendix B of this part; and would incorporate appropriate design and construction standards, control technologies, and best management practices. This categorical exclusion does not apply to underwater powerlines. As used in this categorical exclusion, "small" has the meaning discussed at 10 CFR 1021.102(g)(2).

B4.14 Construction and Operation of Electrochemical-Battery or Flywheel Energy Storage Systems

Construction, operation, upgrade, or decommissioning of an electrochemical-battery or flywheel energy storage system within a previously disturbed or developed area or within a small (as discussed at 10 CFR 1021.102(g)(2)) area contiguous to a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as land use and zoning requirements) in the proposed project area and the integral elements listed at the start of appendix B of this part, and would incorporate appropriate safety standards (including the current National Fire Protection Association 855, Standard for the Installation of Stationary Energy Storage Systems), design and construction standards, control technologies, and best management practices.

B5. Categorical Exclusions Applicable to Conservation, Fossil, and Renewable Energy Activities

B5.1 Actions To Conserve Energy or Water

(a) Actions to conserve energy or water, demonstrate potential energy or water conservation, and promote energy efficiency that would not have the potential to cause significant changes in the indoor or outdoor concentrations of potentially harmful substances. These actions may involve financial and technical assistance to individuals (such as builders, owners, consultants, manufacturers, and designers), organizations (such as utilities), and governments (such as state, local, and tribal). Covered actions include, but are not limited to weatherization (such as insulation and

replacing windows and doors); programmed lowering of thermostat settings; placement of timers on hot water heaters; installation or replacement of energy efficient lighting, low-flow plumbing fixtures (such as faucets, toilets, and showerheads), heating, ventilation, and air conditioning systems, and appliances; installation of drip-irrigation systems; improvements in generator efficiency and appliance efficiency ratings; efficiency improvements for vehicles and transportation (such as fleet changeout); transportation management systems (such as traffic signal control systems, car navigation, speed cameras, and automatic plate number recognition); development of energy-efficient manufacturing, industrial, or building practices; and small-scale energy efficiency and conservation research and development and small-scale pilot projects. Covered actions include building renovations or new structures, provided that they occur in a previously disturbed or developed area. Covered actions could involve commercial, residential, agricultural, academic, institutional, or industrial sectors. Covered actions do not include rulemakings, standard settings, or proposed DOE legislation, except for those actions listed in B5.1(b) of this appendix.

(b) Covered actions include rulemakings that establish energy conservation standards for consumer products and industrial equipment, provided that the actions would not:

(1) Have the potential to cause a significant change in manufacturing infrastructure (such as construction of new manufacturing plants with considerable associated ground disturbance);

(2) involve significant unresolved conflicts concerning alternative uses of available resources (such as rare or limited raw materials);

(3) have the potential to result in a significant increase in the disposal of materials posing significant risks to human health and the environment (such as RCRA hazardous wastes); or

(4) have the potential to cause a significant increase in energy consumption in a state or region.

B5.2 Modifications to Pumps and Piping

Modifications to existing pump and piping configurations (including, but not limited to, manifolds, metering systems, and other instrumentation on such configurations conveying materials such as air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water). Covered modifications would not have the potential to cause significant changes to design process flow rates or permitted air emissions.

B5.3 Modification or Abandonment of Wells

Modification (but not expansion) or plugging and abandonment of wells, provided that site characterization has verified a low potential for seismicity, subsidence, and contamination of freshwater aquifers, and the actions are otherwise consistent with best practices and DOE protocols, including those that protect against uncontrolled releases of harmful

materials. Such wells may include, but are not limited to, storage and injection wells for brine, carbon dioxide, coalbed methane, gas hydrate, geothermal, natural gas, and oil. Covered modifications would not be part of site closure.

B5.4 Repair or Replacement of Pipelines

Repair, replacement, upgrading, rebuilding, or minor relocation of pipelines within existing rights-of-way, provided that the actions are in accordance with applicable requirements (such as Army Corps of Engineers permits under section 404 of the Clean Water Act). Pipelines may convey materials including, but not limited to, air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water.

B5.5 Short Pipeline Segments

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

B5.6 Oil Spill Cleanup

Removal of oil and contaminated materials recovered in oil spill cleanup operations and disposal of these materials in accordance with applicable requirements (such as the National Oil and Hazardous Substances Pollution Contingency Plan).

B5.7 Export of Natural Gas and Associated Transportation by Marine Vessel

Approvals or disapprovals of new authorizations or amendments of existing authorizations to export natural gas under section 3 of the Natural Gas Act and any associated transportation of natural gas by marine vessel.

B5.8 [Reserved]

B5.9 Temporary Exemptions for Electric Powerplants

Grants or denials of temporary exemptions under the Powerplant and Industrial Fuel Use Act of 1978, as amended, for electric powerplants.

B5.10 Certain Permanent Exemptions for Existing Electric Powerplants

For existing electric powerplants, grants or denials of permanent exemptions under the Powerplant and Industrial Fuel Use Act of 1978, as amended, other than exemptions under section 312(c) relating to cogeneration and section 312(b) relating to certain state or local requirements.

B5.11 Permanent Exemptions Allowing Mixed Natural Gas and Petroleum

For new electric powerplants, grants or denials of permanent exemptions from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, to permit the use of certain fuel mixtures containing natural gas or petroleum.

B5.12 Workover of Existing Wells

Workover (operations to restore production, such as deepening, plugging back, pulling and resetting lines, and squeeze cementing) of existing wells (including, but not limited to, activities associated with brine, carbon dioxide, coalbed methane, gas hydrate, geothermal, natural gas, and oil) to restore functionality, provided that workover operations are restricted to the existing wellpad and do not involve any new site preparation or earthwork that would have the potential to cause significant impacts on nearby habitat; that site characterization has verified a low potential for seismicity, subsidence, and contamination of freshwater aquifers; and the actions are otherwise consistent with best practices and DOE protocols, including those that protect against uncontrolled releases of harmful materials.

B5.13 Experimental Wells for Injection of Small Quantities of Carbon Dioxide

Siting, construction, operation, plugging, and abandonment of experimental wells for the injection of small quantities of carbon dioxide (and other incidentally co-captured gases) in locally characterized, geologically secure storage formations at or near existing carbon dioxide sources to determine the suitability of the formations for large-scale sequestration, provided that (1) The characterization has verified a low potential for seismicity, subsidence, and contamination of freshwater aquifers; (2) the wells are otherwise in accordance with applicable requirements, best practices, and DOE protocols, including those that protect against uncontrolled releases of harmful materials; and (3) the wells and associated drilling activities are sufficiently remote so that they would not have the potential to cause significant impacts related to noise and other vibrations. Wells may be used for enhanced oil or natural gas recovery or for secure storage of carbon dioxide in saline formations or other secure formations. Over the duration of a project, the wells would be used to inject, in aggregate, less than 500,000 tons of carbon dioxide into the geologic formation. Covered actions exclude activities in aquatic environments. (See B3.16 of this appendix for activities in aquatic environments.)

B5.14 Combined Heat and Power or Cogeneration Systems

Conversion to, replacement of, or modification of combined heat and power or cogeneration systems (the sequential or simultaneous production of multiple forms of energy, such as thermal and electrical energy, in a single integrated system) at existing facilities, provided that the conversion, replacement, or modification would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources.

B5.15 Small-Scale Renewable Energy Research and Development and Pilot Projects

Small-scale renewable energy research and development projects and small-scale pilot projects, provided that the projects are

located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.16 Solar Photovoltaic Systems

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

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

(2) Located within a previously disturbed or developed area.

(b) Covered actions would be in accordance with applicable requirements (such as land use and zoning requirements) in the proposed project area and the integral elements listed at the start of appendix B of this part, and would be consistent with applicable plans for the management of wildlife and habitat, including plans to maintain habitat connectivity, and incorporate appropriate control technologies and best management practices.

B5.17 Solar Thermal Systems

The installation, modification, operation, and removal of commercially available small-scale solar thermal systems (including, but not limited to, solar hot water systems) located on or contiguous to a building, and if located on land, generally comprising less than 10 acres within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.18 Wind Turbines

The installation, modification, operation, and removal of a small number (generally not more than 2) of commercially available wind turbines, with a total height generally less than 200 feet (measured from the ground to the maximum height of blade rotation) that (1) Are located within a previously disturbed or developed area; (2) are located more than 10 nautical miles (about 11.5 miles) from an airport or aviation navigation aid; (3) are located more than 1.5 nautical miles (about 1.7 miles) from National Weather Service or Federal Aviation Administration Doppler weather radar; (4) would not have the potential to cause significant impacts on bird or bat populations; and (5) are sited or designed such that the project would not have the potential to cause significant impacts to persons (such as from shadow flicker and other visual effects, and noise). Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices. Covered actions include only those related to wind turbines to be installed on land.

B5.19 Ground Source Heat Pumps

The installation, modification, operation, and removal of commercially available small-scale ground source heat pumps to support operations in single facilities (such as a school or community center) or contiguous facilities (such as an office complex) (1) Only where (a) major associated activities (such as drilling and discharge) are regulated, and (b) appropriate leakage and contaminant control measures would be in place (including for cross-contamination between aquifers); (2) that would not have the potential to cause significant changes in subsurface temperature; and (3) would be located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.20 Biomass Power Plants

The installation, modification, operation, and removal of small-scale biomass power plants (generally less than 10 megawatts), using commercially available technology (1) Intended primarily to support operations in single facilities (such as a school and community center) or contiguous facilities (such as an office complex); (2) that would not affect the air quality attainment status of the area and would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources; and (3) would be located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.21 Methane Gas Recovery and Utilization Systems

The installation, modification, operation, and removal of commercially available methane gas recovery and utilization systems installed within a previously disturbed or developed area on or contiguous to an existing landfill or wastewater treatment plant that would not have the potential to cause a significant increase in the quantity or rate of air emissions. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.22 Alternative Fuel Vehicle Fueling Stations

The installation, modification, operation, and removal of alternative fuel vehicle fueling stations (such as for compressed natural gas, hydrogen, ethanol and other commercially available biofuels) on the site of a current or former fueling station, or within a previously disturbed or developed area within the boundaries of a facility managed by the owners of a vehicle fleet. Covered actions would be in accordance with

applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.23 Electric Vehicle Charging Stations

The installation, modification, operation, and removal of electric vehicle charging stations, using commercially available technology, within a previously disturbed or developed area. Covered actions are limited to areas where access and parking are in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.24 Drop-In Hydroelectric Systems

The installation, modification, operation, and removal of commercially available small-scale, drop-in, run-of-the-river hydroelectric systems that would (1) Involve no water storage or water diversion from the stream or river channel where the system is installed and (2) not have the potential to cause significant impacts on water quality, temperature, flow, or volume. Covered systems would be located up-gradient of an existing anadromous fish barrier that is not planned for removal and where fish passage retrofit is not planned and where there would not be the potential for significant impacts to threatened or endangered species or other species of concern (as identified in B(4)(ii) of this appendix). Covered actions would involve no major construction or modification of stream or river channels, and the hydroelectric systems would be placed and secured in the channel without the use of heavy equipment. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.25 Small-Scale Renewable Energy Research and Development and Pilot Projects in Aquatic Environments

Small-scale renewable energy research and development projects and small-scale pilot projects located in aquatic environments. Activities would be in accordance with, where applicable, an approved spill prevention, control, and response plan, and would incorporate appropriate control technologies and best management practices. Covered actions would not occur (1) Within areas of hazardous natural bottom conditions or (2) within the boundary of an established marine sanctuary or wildlife refuge, a governmentally proposed marine sanctuary or wildlife refuge, or a governmentally recognized area of high biological sensitivity, unless authorized by the agency responsible for such refuge, sanctuary, or area (or after consultation with the responsible agency, if no authorization is required). If the proposed activities would occur outside such refuge, sanctuary, or area and if the activities would have the potential to cause impacts within such refuge, sanctuary, or area, then the responsible agency shall be consulted in order to determine whether authorization is

required and whether such activities would have the potential to cause significant impacts on such refuge, sanctuary, or area. Areas of high biological sensitivity include, but are not limited to, areas of known ecological importance, whale and marine mammal mating and calving/pupping areas, and fish and invertebrate spawning and nursery areas recognized as being limited or unique and vulnerable to perturbation; these areas can occur in bays, estuaries, near shore, and far offshore, and may vary seasonally. No permanent facilities or devices would be constructed or installed. Covered actions do not include drilling of resource exploration or extraction wells, use of large-scale vibratory coring techniques, or seismic activities other than passive techniques.

B6. Categorical Exclusions Applicable to Environmental Restoration and Waste Management Activities

B6.1 Cleanup Actions

Small-scale, short-term cleanup actions, under RCRA, Atomic Energy Act, or other authorities, less than approximately 10 million dollars in cost (in 2011 dollars), to reduce risk to human health or the environment from the release or threat of release of a hazardous substance other than high-level radioactive waste and spent nuclear fuel, including treatment (such as incineration, encapsulation, physical or chemical separation, and compaction), recovery, storage, or disposal of wastes at existing facilities currently handling the type of waste involved in the action. These actions include, but are not limited to:

(a) Excavation or consolidation of contaminated soils or materials from drainage channels, retention basins, ponds, and spill areas that are not receiving contaminated surface water or wastewater, if surface water or groundwater would not collect and if such actions would reduce the spread of, or direct contact with, the contamination;

(b) Removal of bulk containers (such as drums and barrels) that contain or may contain hazardous substances, pollutants, contaminants, CERCLA-excluded petroleum or natural gas products, or hazardous wastes (designated in 40 CFR part 261 or applicable state requirements), if such actions would reduce the likelihood of spillage, leakage, fire, explosion, or exposure to humans, animals, or the food chain;

(c) Removal of an underground storage tank including its associated piping and underlying containment systems in accordance with applicable requirements (such as RCRA, subtitle I; 40 CFR part 265, subpart J; and 40 CFR part 280, subparts F and G) if such action would reduce the likelihood of spillage, leakage, or the spread of, or direct contact with, contamination;

(d) Repair or replacement of leaking containers;

(e) Capping or other containment of contaminated soils or sludges if the capping or containment would not unduly limit future groundwater remediation and if needed to reduce migration of hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas

products into soil, groundwater, surface water, or air;

(f) Drainage or closing of man-made surface impoundments if needed to maintain the integrity of the structures;

(g) Confinement or perimeter protection using dikes, trenches, ditches, or diversions, or installing underground barriers, if needed to reduce the spread of, or direct contact with, the contamination;

(h) Stabilization, but not expansion, of berms, dikes, impoundments, or caps if needed to maintain integrity of the structures;

(i) Drainage controls (such as run-off or run-on diversion) if needed to reduce offsite migration of hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum or natural gas products or to prevent precipitation or run-off from other sources from entering the release area from other areas;

(j) Segregation of wastes that may react with one another or form a mixture that could result in adverse environmental impacts;

(k) Use of chemicals and other materials to neutralize the pH of wastes;

(l) Use of chemicals and other materials to retard the spread of the release or to mitigate its effects if the use of such chemicals would reduce the spread of, or direct contact with, the contamination;

(m) Installation and operation of gas ventilation systems in soil to remove methane or petroleum vapors without any toxic or radioactive co-contaminants if appropriate filtration or gas treatment is in place;

(n) Installation of fences, warning signs, or other security or site control precautions if humans or animals have access to the release; and

(o) Provision of an alternative water supply that would not create new water sources if necessary immediately to reduce exposure to contaminated household or industrial use water and continuing until such time as local authorities can satisfy the need for a permanent remedy.

B6.2 Waste Collection, Treatment, Stabilization, and Containment Facilities

The siting, construction, and operation of temporary (generally less than 2 years) pilot-scale waste collection and treatment facilities, and pilot-scale (generally less than 1 acre) waste stabilization and containment facilities (including siting, construction, and operation of a small-scale laboratory building or renovation of a room in an existing building for sample analysis), provided that the action (1) Supports remedial investigations/feasibility studies under CERCLA, or similar studies under RCRA (such as RCRA facility investigations/corrective measure studies) or other authorities and (2) would not unduly limit the choice of reasonable remedial alternatives (such as by permanently altering substantial site area or by committing large amounts of funds relative to the scope of the remedial alternatives).

B6.3 Improvements to Environmental Control Systems

Improvements to environmental monitoring and control systems of an existing building or structure (such as changes to scrubbers in air quality control systems or ion-exchange devices and other filtration processes in water treatment systems), provided that during subsequent operations (1) Any substance collected by the environmental control systems would be recycled, released, or disposed of within existing permitted facilities and (2) there are applicable statutory or regulatory requirements or permit conditions for disposal, release, or recycling of any hazardous substance or CERCLA-excluded petroleum or natural gas products that are collected or released in increased quantity or that were not previously collected or released.

B6.4 Facilities for Storing Packaged Hazardous Waste for 90 Days or Less

Siting, construction, modification, expansion, operation, and decommissioning of an onsite facility for storing packaged hazardous waste (as designated in 40 CFR part 261) for 90 days or less or for longer periods as provided in 40 CFR 262.34(d), (e), or (f) (such as accumulation or satellite areas).

B6.5 Facilities for Characterizing and Sorting Packaged Waste and Overpacking Waste

Siting, construction, modification, expansion, operation, and decommissioning of an onsite facility for characterizing and sorting previously packaged waste or for overpacking waste, other than high-level radioactive waste, provided that operations do not involve unpacking waste. These actions do not include waste storage (covered under B6.4, B6.6, B6.10 of this appendix) or the handling of spent nuclear fuel.

B6.6 Modification of Facilities for Storing, Packaging, and Repacking Waste

Modification (excluding increases in capacity) of an existing structure used for storing, packaging, or repacking waste other than high-level radioactive waste or spent nuclear fuel, to handle the same class of waste as currently handled at that structure.

B6.7 [Reserved]

B6.8 Modifications for Waste Minimization and Reuse of Materials

Minor operational changes at an existing facility to minimize waste generation and for reuse of materials. These changes include, but are not limited to, adding filtration and recycle piping to allow reuse of machining oil, setting up a sorting area to improve process efficiency, and segregating two waste streams previously mingled and assigning new identification codes to the two resulting wastes.

B6.9 Measures To Reduce Migration of Contaminated Groundwater

Small-scale temporary measures to reduce migration of contaminated groundwater, including the siting, construction, operation, and decommissioning of necessary facilities.

These measures include, but are not limited to, pumping, treating, storing, and reinjecting water, by mobile units or facilities that are built and then removed at the end of the action.

B6.10 Upgraded or Replacement Waste Storage Facilities

Siting, construction, modification, expansion, operation, and decommissioning of a small upgraded or replacement facility (less than approximately 50,000 square feet in area) within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible) for storage of waste that is already at the site at the time the storage capacity is to be provided. These actions do not include the storage of high-level radioactive waste, spent nuclear fuel or any waste that requires special precautions to prevent nuclear criticality. (See also B6.4, B6.5, B6.6 of this appendix.)

B7. Categorical Exclusions Applicable to International Activities

B7.1 Emergency Measures Under the International Energy Program

Planning and implementation of emergency measures pursuant to the International Energy Program.

B7.2 Import and Export of Special Nuclear or Isotopic Materials

Approval of import or export of small quantities of special nuclear materials or isotopic materials in accordance with applicable requirements (such as the Nuclear Non-Proliferation Act of 1978 and the “Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978” (43 FR 25326, June 9, 1978)).

Note: The following appendix will not appear in the Code of Federal Regulations

Appendix

U.S. Department of Energy

National Environmental Policy Act (NEPA), Implementing Procedures

June 30, 2025

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1.0 Introduction

All offices¹ of the Department of Energy (DOE) will use the procedures included

herein to comply with the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4331, *et seq.*). These procedures are designed to inform agency decision makers during the decision making process. When DOE is considering a proposed action that is subject to NEPA, these procedures ensure that DOE decision makers are informed, in a timely manner, about the reasonably foreseeable environmental effects of the proposed actions and reasonable alternatives. These procedures recognize that NEPA is a purely procedural statute—it does not dictate DOE’s decision—and that DOE has discretion to determine the issues to be considered consistent with the statute.

These procedures describe the process by which DOE determines what actions are subject to NEPA’s procedural requirements and the level of required NEPA review; interpret certain key terms used in NEPA; ensure that relevant environmental information is identified and considered early in the process in order to inform decision-making; reduce unnecessary burdens and delays; and implement NEPA’s mandates regarding lead and cooperating agency roles, page and time limits, and applicant preparation of environmental documents.

DOE consulted with the Council on Environmental Quality (CEQ) in the development of these procedures for the implementation of NEPA in accord with 42 U.S.C. 4332(B). DOE will in future consult with CEQ when revising these procedures.

This document provides guidance on DOE’s NEPA implementation. This document is not a regulation. Nothing contained in these procedures is intended or should be construed to limit DOE’s other authorities or legal responsibilities. These procedures do not, nor are they intended to, confer legal rights, impose legally binding requirements, or impose legal obligations upon DOE, States, federally recognized Indian Tribes, or any member of the public. The sections of these procedures are separate and severable from one another. If any section or portion therein is stayed or determined to be invalid, or the applicability of any section to any person or entity is held invalid, it is DOE’s intention that the validity of the remainder of these procedures will not be affected and will continue in effect, along with all applications thereof. DOE retains the discretion to adopt approaches on a case-by-case basis that differ from those described in these procedures where appropriate.

These procedures are consistent with the Supreme Court’s decision in *Seven County Infrastructure Coalition et al. v. Eagle County, Colorado*.² These procedures represent DOE’s understanding that DOE has broad discretion when conducting its reasonable decision making. At a high level, DOE understands that *Seven County* was about the separation of powers where agencies may weigh environmental

www.directives.doe.gov/references/doe_departmental_elements.

² *Seven County Infrastructure Coalition v. Eagle Cnty., Colo.* (“*Seven County*”), 145 S. Ct. 1497 (2025).

consequences as they reasonably see fit under their governing statute. As made clear in *Seven County*, the central principle of judicial review in NEPA cases is substantial deference to agencies.³ In addition, NEPA imposes no substantive constraints on any agency’s ultimate decision to build, fund, or approve a proposed project. As the Court explained, brevity in a NEPA document should not be mistaken for a lack of detail. Put differently, length is not a prerequisite for a NEPA document to be “detailed” within the meaning of that term as used in the statute or to otherwise be in compliance with NEPA. As the Court additionally explained, Congress in 2023 incorporated deadlines and page limits into the statute which now “strictly prohibit[]” NEPA analysis “from going on endlessly.”⁴ The review of a NEPA document does not bind DOE’s ultimate determination concerning a proposed project. Instead, NEPA documents ensure that agency decision makers are fully informed as to the environmental effects of the proposed action. Ordinarily, DOE NEPA analysis should not consider environmental effects of separate projects, especially those over which DOE does not exercise regulatory authority.

These DOE NEPA implementing procedures, and related guidance and resources, are available on DOE’s website at energy.gov/nepa. Questions regarding these procedures and requests to revise these procedures, including to adopt categorical exclusions from another agency, should be addressed to the Office of the General Counsel.

2.0 Planning and Decision Making

As soon as practical after DOE has identified that it has a proposal, DOE should determine whether compliance with NEPA is required and, if it is, the required level of NEPA review. DOE should integrate the NEPA process with other planning and authorization processes at the earliest reasonable time to avoid delays later in the process, to head off potential conflicts, and to ensure that DOE considers environmental effects in its planning and decisions.

2.1 Determining Whether NEPA Applies

As an initial matter and serving as an overriding principle, NEPA does not require the agency to weigh environmental consequences in any particular way. The goal of NEPA is to inform an agency decision, not to paralyze it. *See Seven County, supra*.

(a) DOE will determine whether NEPA applies to a proposal in accordance with the procedures included in this section. DOE will make this determination on a case-by-case basis.

(b) In determining whether NEPA applies to a proposal, DOE will consider only the action or project at hand.

(c) DOE has determined that the following non-exhaustive list of activities are not subject to NEPA.

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

¹ As used in this document, “DOE offices” refers to all DOE Departmental Elements listed at [https://](https://www.directives.doe.gov/references/doe_departmental_elements)

³ *Id.* at 1511–12.

⁴ *Id.* at 1512 n.3.

seq.) because there is a functional equivalency between NEPA and CERCLA.

(2) NEPA does not apply to applications to authorize—

- (i) The import of natural gas; or
- (ii) The export of natural gas to countries with which the United States has a free trade agreement requiring national treatment for trade in natural gas.

For both types of applications, section 3(c) of the Natural Gas Act (15 U.S.C. 717b) leaves DOE with no discretion whether to approve the application.

(3) NEPA does not apply to applications for a Presidential permit authorizing the construction, connection, operation, or maintenance of facilities for transmission of electric energy between the United States and a foreign country under Executive Order (E.O.) 10485 (18 FR 5397; September 3, 1953), as amended by E.O. 12038 (43 FR 4957; February 7, 1978). DOE's issuance of a Presidential permit is not agency action, but rather delegated Presidential action. Presidential actions are not subject to NEPA or review under the Administrative Procedure Act.

(4) NEPA does not apply to hydroelectric incentive payments made to qualified hydroelectric facilities under section 242 of the Energy Policy Act of 2005 (42 U.S.C. 15881). DOE has no discretion in whether to provide payments to a qualified hydroelectric facility, and the payments do not satisfy the definition of major Federal action.

(5) NEPA does not apply to actions that are solely administrative and routine that are undertaken to support the normal conduct of DOE business. While such activities are Federal actions, they are not “major” and therefore not subject to NEPA. These actions were formerly identified as categorical exclusions in appendix A in DOE's regulations. They now represent actions that are excepted from NEPA based on the definition of “major Federal action” in Section 110(10). They have been retained as appendix A for ease of reference and to avoid confusion.

(6) NEPA does not apply to DOE's issuance of emergency Orders pursuant to section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) because preparing an environmental document under NEPA's generally applicable provisions would clearly and fundamentally conflict with the emergency provisions in the Federal Power Act. As stated at the beginning of this section, NEPA is to inform DOE's decision-making, which is inconsistent with the language and intent of section 202(c), adding further conflict with the statute.

(7) NEPA does not apply to funding DOE provides to local governments, states or Tribes under the Energy Efficiency and Conservation Block Grant Program (42 U.S.C. 17151–58), to funding DOE provides to states under the State Energy Conservation Plan Program (now known as the State Energy Program) (42 U.S.C. 6321–26), or to funding DOE provides to states under the Energy Efficiency Revolving Loan Fund Capitalization Grants Program (42 U.S.C. 18791–92). Under these programs, DOE does not exercise sufficient control and responsibility over the subsequent use of the financial assistance or the effect of the

actions due to the statutory restrictions on the recipients' use of DOE's financial assistance. Therefore, DOE's provision of financial assistance under these programs is not a major Federal action subject to NEPA.

(8) NEPA does not apply to rulemaking actions proposed by the Secretary pursuant to section 403(a) of the DOE Act (42 U.S.C. 7173) because such proposals are not final agency action. Section 403(b) specifies that FERC takes “final action” on any rulemaking proposals initiated by the Secretary. NEPA only applies to final agency actions. See 42 U.S.C. 4336(a)(1).

(d) In making a case-by-case determination whether NEPA applies to a program (*e.g.*, implementation of a financial assistance program authorized by Congress) or a particular proposal (*e.g.*, whether to provide financial assistance for a specific project), DOE shall follow criteria included in NEPA and listed below. NEPA does not apply if:

(1) The proposed agency action is not a final agency action within the meaning of such term in chapter 5 of title 5, United States Code (42 U.S.C. 4336(a)(1)) or other relevant statute that also includes a finality requirement. Also see 5 U.S.C. 704;

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

(3) Compliance with NEPA would conflict with the requirements of another provision of law (42 U.S.C. 4336(a)(3));

(4) When Congress has afforded the DOE no discretion over the proposed action.

(5) The proposed action is not a “major Federal action.” The terms “major” and “Federal action” each have independent force. NEPA applies only when both of these two criteria are met.

(i) NEPA does not apply to non-Federal actions (I) with no or minimal Federal funding, or (II) with no or minimal Federal involvement where a Federal agency cannot control the outcome of the project (42 U.S.C. 4336e(10)(B)(i)). In such circumstances, there is no legal requirement nor any practical reason for DOE to conduct a NEPA analysis because DOE could not influence the outcome of its action to address the environmental effects of the proposal. For example, this might include situations where Federal funding constitutes a small percentage of an infrastructure projects overall funding that is provided only to help design an infrastructure project that is otherwise funded from non-Federal sources, because in such situations DOE cannot control the environmental effects of the completed non-Federal action;⁵

(ii) NEPA does not apply to funding assistance solely in the form of general revenue sharing funds which do not provide

Federal agency compliance or enforcement responsibility over the subsequent use of such funds (42 U.S.C. 4336e(10)(B)(ii));

(iii) NEPA does not apply to loans, loan guarantees, or other forms of financial assistance where a Federal agency does not exercise sufficient control and responsibility over the subsequent use of such financial assistance or the effect of the action (42 U.S.C. 4336e(10)(B)(iii)). For example, financial assistance for non-Federal activities or projects where all physical work has been completed before the applicant seeks funds or reimbursement from DOE (*e.g.* incentive payments made by DOE to owners or operators of qualified hydroelectric facilities whose project was complete at the time of application to DOE under 42 U.S.C. 15883 (Section 247)) because DOE does not exercise sufficient control and responsibility over the subsequent use of such financial assistance or the effect of the action;

(iv) NEPA does not apply to business loan guarantees provided by the Small Business Administration pursuant to section 7(a) or (b) of the Small Business Act (15 U.S.C. 636(a), (b)), or title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 *et seq.*) (42 U.S.C. 4336e(10)(B)(iv));

(v) NEPA does not apply to bringing judicial or administrative civil or criminal enforcement actions (42 U.S.C. 4336e(10)(B)(v)); or

(vi) NEPA does not apply to extraterritorial activities or decisions, which means agency activities or decisions with effects located entirely outside of the jurisdiction of the United States (42 U.S.C. 4336e(10)(B)(vi)).

(6) The issuance or update of DOE's NEPA procedures is not subject to NEPA review.

2.2 Determining the Required Level of NEPA Review

(a) If DOE determines, as described in section 2.1, that NEPA applies to a proposal, DOE will then determine the required level of NEPA review following the procedures described in this section. DOE will make this determination as soon as practicable after identifying that it has a proposal requiring NEPA review. At all steps in the following process, DOE will consider the proposed action or project at hand and *its* effects.

(b) If DOE has established a categorical exclusion (appendix B) or adopted under section 109 of NEPA another agency's categorical exclusion listed in the other agency's NEPA procedures (42 U.S.C. 4336(c)) (appendix C), DOE will apply the categorical exclusion(s), following the procedures in chapter 5.

(1) If another agency has already established a categorical exclusion that would apply to the proposed action, DOE will consider whether to rely on that categorical exclusion pursuant to NEPA and the procedures described in section 5.5 so that it can be applied to the proposed action at issue, and to future proposals of that type.

(2) If no relevant categorical exclusion is otherwise available, DOE will consider whether to establish a new categorical exclusion, or revise an existing categorical exclusion, according to the procedures described in section 5.1. If DOE establishes or revises a categorical exclusion, DOE shall

⁵ “The touchstone of major [F]ederal activity constitutes a [F]ederal agency's authority to influence nonfederal activity. ‘The [F]ederal agency must possess actual power to control the nonfederal activity.’” *United States v. S. Fla. Water Mgmt. Dist.*, 28 F.3d 1563, 1572 (11th Cir. 1994). A but-for causal relationship is insufficient to make an agency responsible for a particular action under NEPA. See *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 767 (2004). For instance, minimal Federal funding or involvement, which may in a causal sense be a but-for cause of an action, does not by itself convert that action into a Federal action within the meaning of NEPA.

then apply the categorical exclusion to the proposed action according to the procedures described in section 5.4.

(c) If DOE cannot apply a categorical exclusion to the proposed action, DOE will evaluate significance of the proposed action's reasonably foreseeable effects consistent with section 3.2, and then will:

(1) If the proposed action is evaluated in a prior NEPA document prepared by DOE or another agency, DOE will consider relying on the existing document, or any pertinent part thereof, and supplementing that document as needed.

(2) If the proposed action is not likely to have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of the effects of the proposed action is unknown, DOE will prepare an environmental assessment, as described in chapter 6; or

(3) If the proposed action is likely to have a reasonably foreseeable significant effect on the quality of the human environment, DOE will prepare an environmental impact statement, as described in chapter 7.

(d) DOE may use an early scoping process to help determine the required level of NEPA review. In such a process, DOE should be driven by the need to begin the required NEPA review promptly and should avoid steps that do not demonstrably improve the efficiency of the process. DOE also should remain aware that the schedule for the environmental assessment or environmental impact statement begins once DOE has determined the required level of NEPA review (sections 6.4 and 7.7). DOE should engage any applicant and other parties, as will be beneficial, in the early scoping process. An early scoping process may include, as appropriate to the proposal, steps such as:

(1) Preliminarily identifying the Federal agencies and other parties that will be involved and that have decisions to make related to the proposal; the range of reasonable alternatives and rationale for excluding certain alternatives from detailed analysis; the scope of environmental effects to be analyzed and rationale for excluding certain environmental effects from analysis; and the schedule.

(2) Requesting input from state and local agencies, Tribal governments, industry groups, and the public.

2.3 Applicant and Contractor Preparation of Documents

DOE or an applicant may prepare an environmental assessment or environmental impact statement, including related supplements and supplement analyses, and either may engage a contractor to help prepare such document. An agency-directed contractor is a contractor whose work is supervised and directed by DOE. DOE either hires the agency-directed contractor directly or engages them as part of a third-party contracting arrangement. Under the third-party contracting arrangement, an applicant pays for the contractor but has no role in directing the work of the contractor. Rather, DOE supervises and directs the contractor's work throughout document preparation.

An applicant-directed contractor is hired and supervised directly by the applicant.

DOE provides guidance and direction at particular points throughout document preparation.

2.3.1 DOE Responsibilities

DOE is responsible for complying with NEPA and certain requirements in other statutes and regulations (e.g., Endangered Species Act). Certain decisions and actions involved in preparing a NEPA document cannot be delegated to an applicant or contractor. DOE will:

(a) Determine the required level of NEPA review;

(b) Ensure that the scope of analysis and procedural steps are compliant with NEPA and other applicable requirements;

(c) Conduct any government-to-government consultation with Tribal governments and any required consultation with other Federal agencies;

(d) Independently evaluate and take responsibility for the document's contents;

(e) Ensure that the document satisfies all requirements of NEPA and these procedures, including those for page limits and schedule, and determine whether to issue the document, and include a statement in the document confirming that DOE has independently reviewed the document; and

(f) Prepare and issue any finding of no significant impact, record of decision, determination whether additional NEPA review is required, or other decision.

2.3.2 Applicant Responsibilities

The applicant for a proposal being analyzed in a NEPA review will:

(a) Provide all information requested by DOE, necessary for the NEPA review, in a timely manner to support the schedule for completing the NEPA review;

(b) Initiate any request to DOE to prepare the NEPA review (as provided by 42 U.S.C. 4336a(f)) with the application or during the early scoping period prior to DOE's determination of the required level of NEPA review;

(c) Include a statement in the document that it was prepared by the applicant or a contractor paid by the applicant.

(d) DOE may request from an applicant environmental information used to prepare or evaluate the environmental assessment or environmental impact statement. This may include any factual, scientific, or technical information used, developed, or considered by the applicant or applicant-hired contractor in the course of preparing the environmental assessment or environmental impact statement, including any correspondence with DOE or with other parties.

(e) If DOE determines that the applicant-prepared document is likely to be insufficient, DOE may request that the applicant replace its applicant-directed contractor or may take control of completion of the document.

(f) Develop a consolidated administrative record of the information assembled and used to prepare the NEPA document and provide that record to DOE within two weeks of DOE's request.

2.3.3 DOE and Applicant Coordination During NEPA Review

(a) DOE will work with the applicant to define the purpose and need and identify alternatives for detailed analysis that meet the purpose and need.

(b) DOE also will work with the applicant to identify other Federal agencies, state agencies, and Tribes that may have an interest in the proposal and will work with the applicant to identify an appropriate list for notifications and distribution of the document.

(c) DOE will assist applicants and applicant-directed contractors by providing guidance and outlining the types of information required for the preparation of the environmental assessment or environmental impact statement. DOE also may assist in document preparation.

(d) DOE shall develop and modify, as appropriate, a schedule for preparation of the environmental assessment or environmental impact statement that meets the requirements in NEPA and these procedures. The schedule shall provide sufficient time for DOE to review the environmental assessment or environmental impact statement and determine its sufficiency. Major changes to the schedule or related matters will be documented through written correspondence.

2.4 NEPA and Rulemaking

(a) Where the proposed action is the promulgation of a rule or regulation, procedures and documentation pursuant to other statutory or Executive Order requirements may satisfy one or more requirements of these procedures. In such circumstances, DOE may substitute the procedures and documentation pursuant to other statutory or Executive Order requirements for the corresponding requirements in these DOE NEPA implementing procedures and need not carry out duplicative procedures or documentation. DOE will identify which corresponding requirements in these procedures are satisfied and consult with CEQ to confirm such determinations.

(b) Where DOE decides to issue a separate NEPA document in connection with a rulemaking, the NEPA document will normally accompany the proposed rule.

2.5 Lead and Cooperating Agencies

In many instances, a proposed activity or decision is undertaken in the context which entails activities or decisions undertaken by other Federal agencies (e.g., where multiple Federal authorizations are required with respect to a project sponsor's overall purpose and goal). In such instances, NEPA directs the multiple agencies involved shall determine which of them will be the lead agency pursuant to the criteria identified in NEPA § 107(a)(1)(A), 42 U.S.C. 4336a(a)(1)(A). When serving as the lead agency, DOE is ultimately responsible for completing the NEPA process. When a joint lead relationship is established pursuant to NEPA § 107(a)(1)(B), 42 U.S.C. 4336a(a)(1)(B), DOE and the other joint lead agency or agencies are collectively responsible for completing the NEPA process.

3.0 Implementing NEPA Efficiently

DOE will use all available means to improve the efficiency of its implementation of NEPA. DOE will make maximum use of existing analyses to avoid repeating work completed for previous environmental documents or other purposes. DOE also will coordinate with other agencies to make environmental reviews more efficient for all agencies with a decision to make or action to take regarding a proposal. Nothing in this section extends the statutory page limits (sections 6.3 and 7.6) or schedule deadlines (sections 6.4 and 7.7).

3.1 Identifying Reasonably Foreseeable Environmental Effects

DOE is responsible under NEPA for analyzing reasonably foreseeable environmental effects (42 U.S.C. 4332(C)(i)) of the proposed action and alternatives. DOE should consider the following factors and the definition of “effects” (chapter 8.0) when identifying reasonably foreseeable effects that require analysis:

(a) DOE shall analyze only those reasonably foreseeable environmental effects that have a reasonably close causal relationship to the proposed agency action and alternatives.

(b) “[W]hen the effects of an agency action arise from a separate project—for example, a possible future project or one that is geographically distinct from the project at hand—NEPA does not require the agency to evaluate the effects of that separate project.”⁶ In addition, an agency is not required to analyze the effects of projects over which it does not exercise regulatory authority.⁷

3.2 Evaluating Significance

Determining whether an environmental effect is significant is a critical part of the NEPA process. Whether an impact rises to the level of “significant” is a matter of DOE’s expert judgment. DOE must determine whether environmental effects of a class of actions normally are significant when establishing or revising a categorical exclusion and, in the use of a categorical exclusion whether extraordinary

circumstances create significant effects (chapter 5). When a categorical exclusion does not apply to a proposal, DOE considers whether environmental effects are likely to be significant as the central question in deciding whether to prepare an environmental assessment or environmental impact statement (section 2.2). DOE again considers the significance of environmental effects when evaluating changes to a proposed action or new information related to the environmental effects of a proposal (section 3.9). DOE also considers the significance of effects in determining the level of detail to include in an environmental assessment or environmental impact statement.

(a) The analysis of environmental effects should be tailored to the particular proposal including the location. In all cases, DOE’s analysis should be “reasonable and reasonably explained,”⁸ and the analysis need not run longer than necessary to provide that reasoned explanation.⁹ The remainder of this section describes criteria that might factor into DOE’s analysis of environmental effects.

(b) DOE may use any reliable data source, and DOE need not undertake new research unless it is essential to a reasoned choice among alternatives and the overall costs and time frame of preparing new information are not unreasonable. (42 U.S.C. 4336(b)(3)) When DOE is evaluating an action’s reasonably foreseeable effects on the human environment, and there is incomplete or unavailable information that cannot be obtained at a reasonable cost or the means to obtain it are unknown, DOE should make clear in the relevant environmental document that such information is lacking.

(c) The significance of effects is evaluated in the context of the affected environment (local, regional, or national) and its resources, as appropriate for the specific action and the mechanism or pathway by which the action can result in an environmental effect. Consequently, the environmental document needs a description of the affected environment that is sufficient to support a reasoned explanation of DOE’s conclusion regarding the significance of effects. This may be in a standalone section or chapter on the affected environment or integrated into the discussion of environmental effects. In any case, the discussion of the affected environment should not be encyclopedic and need not extend beyond areas associated with reasonably foreseeable environmental effects that have a close causal relationship to the proposed action and alternatives.

(d) In considering whether effects are significant, DOE should consider the following, as appropriate to the specific resource area:

- (1) Both short- and long-term effects.
- (2) Both beneficial and adverse effects.
- (3) Effects on public health and safety.
- (4) Economic effects.
- (5) Effects on the quality of life of the American people.

⁸ *Id.* at 1511.

⁹ *Id.* at 1512 (“Brevity should not be mistaken for lack of detail. A relatively brief agency explanation can be reasoned and detailed; an EIS need not meander on for hundreds or thousands of pages.”).

(e) DOE should evaluate environmental effects in context. In considering short-term effects, for example, DOE should acknowledge that certain adverse effects that occur during construction may be reversible through revegetation or other actions that return the environment to its original condition or to a functioning ecosystem. Such effects are not significant over the long-term, though other effects of construction activities might be. For another example, DOE should acknowledge that facility construction and operation will not be authorized without compliance with applicable laws and other requirements (e.g., DOE orders and technical standards).

3.3 Relying on Existing Environmental Documents

(a) DOE may rely on an environmental assessment, environmental impact statement, or portion thereof, issued by any Federal agency that meets the standards under NEPA and these procedures. (The use of “rely on” is the same concept as “adopt” in prior NEPA practice for environmental assessments and environmental impact statements.) The nature of DOE’s reliance on an existing document depends on the relationship of the existing document to DOE’s NEPA review of a new or modified proposal.

(1) If the actions analyzed in the original environmental assessment or environmental impact statement and DOE’s proposed action are substantially the same, and the analysis in the original document remains sufficient, DOE may republish the relied upon environmental assessment or environmental impact statement to satisfy its responsibilities under NEPA. DOE will add to the republished document a statement that it has confirmed that the original document satisfies DOE’s NEPA responsibilities for the new or modified proposal.

(2) If the existing environmental assessment, environmental impact statement, or portion thereof, is only relevant to part of DOE’s proposed action, DOE should cite, briefly describe the content and relevance to the environmental document being prepared, and may supplement or make modifications that are necessary to render the relied-upon document, or portion thereof, fit for fulfilling NEPA’s analytic requirements for the action at hand.

(3) There is no statutory requirement or otherwise to post a draft EIS for public comment.

3.4 Incorporation by Reference

(a) DOE may incorporate material, such as planning studies, technical analyses, or other relevant information, into environmental documents by reference when the effect will be to cut down on bulk without impeding DOE and public review of the environmental effects of the proposed action or alternatives. When incorporating material by reference, DOE will cite, briefly describe the content and relevance to the environmental document, and make the materials reasonably available by potentially interested parties. If DOE provides an opportunity for public review of the environmental document, DOE also will make any materials

⁶ *Seven County*, 145 S. Ct. at 1515. The Supreme Court provided the following explanation: “[I]f the project at issue might lead to the construction or increased use of a *separate project*—for example, a housing development that might someday be built near a highway—the agency need not consider the environmental effects of *that separate project*. . . . [T]he separate project breaks the chain of proximate causation between the project at hand and the environmental effects of the separate project.” *Id.* at 1515–16 (citing *Public Citizen v. Dep’t of Transp.*, 541 U.S. 752, 767 (2004) and *Metropolitan Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 774, n. 7 (1983)). “The effects from a separate project may be factually foreseeable, but that does not mean that those effects are relevant to the agency’s decisionmaking process or that it is reasonable to hold the agency responsible for those effects. . . . In those circumstances, ‘the causal chain is too attenuated.’” *Id.* at 1517 (citing, *inter alia*, *Public Citizen*, 541 U.S. at 766–767 and quoting *Metropolitan Edison*, 460 U.S. at 774). “In other words, there is no ‘reasonably close causal relationship’ between the project at hand and the environmental effects of those other projects.” *Id.* at 1516 (citing *Public Citizen*, 541 U.S. at 767). ”

⁷ *Id.* at 1516.

incorporated by reference publicly available at the same time. DOE will not use incorporation by reference as a means to evade the statutory page limits (sections 6.3 and 7.6).

(b) Although NEPA itself does not require cost-benefit analysis, DOE may prepare a cost-benefit analysis for a particular proposal. To the extent that this cost-benefit analysis is relevant to any alternatives analysis that DOE is conducting pursuant to NEPA, DOE will incorporate the cost-benefit analysis or append it to the statement to avoid duplication in evaluating the environmental effects. In such cases, the environmental document will discuss the relationship between that analysis and any analyses of unquantified environmental effects, values, and amenities.

3.5 Combining Documents

DOE will combine, to the fullest extent practicable, any environmental document with any other agency document to reduce duplication and paperwork. Combining documents does not extend page limits for environmental assessments and environmental impact statements unless another statute applies (sections 6.3 and 7.6).

3.6 Integrating NEPA With Other Environmental Requirements

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

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

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

3.7 Elimination of Duplication With State, Tribal, and Local Procedures

(a) DOE will cooperate with State, Tribal, and local agencies that have a decision or action to make relevant to the environmental effects of the proposal, including laws comparable with NEPA.

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

- (1) Joint planning processes;
- (2) Joint environmental research and studies;
- (3) Joint public meetings or hearings; and
- (4) Joint environmental documents.

3.8 Programmatic Environmental Documents and Tiering

(a) DOE may prepare environmental documents for programmatic Federal actions, such as the adoption of new agency programs. DOE may evaluate the proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as a DOE site, body of water, region, or metropolitan area.

(2) Generically, including actions that have relevant similarities, such as common timing, effects, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development.

(b) Consistent with NEPA § 108, 42 U.S.C. 4336b, after completing a programmatic environmental assessment or environmental impact statement, DOE may rely on that document for 5 years if there are not substantial new circumstances or information about the significance of adverse effects that bear on the analysis. After 5 years, as long as DOE reevaluates the analysis in the programmatic environmental document and any underlying assumption to ensure reliance on the analysis remains valid and briefly documents its reevaluation and explains why the analysis remains valid considering any new and substantial information or circumstances, DOE may continue to rely on the document.

(c) DOE may, but is not required to, prepare a programmatic environmental document when it does not have a programmatic decision to make. When a programmatic environmental document is not required, DOE should consider whether a technical report or study would improve the efficiency of future NEPA reviews by providing information on a technology, region, or other subject that can be referenced in future environmental documents.

3.9 Supplements to Environmental Documents and Supplement Analyses

(a) DOE is required to prepare supplements to environmental documents only if a major Federal action remains to occur, and:

(1) DOE makes substantial changes to the proposed action that are relevant to environmental concerns; or

(2) DOE decides, in its discretion, that there are substantial new circumstances or information about the significance of the adverse effects that bearing on the proposed action or its effects.

(b) When it is unclear whether or not a supplement to an environmental document is required, DOE may prepare a supplement analysis.

(1) The supplement analysis should discuss the circumstances that are pertinent to deciding whether to prepare a supplement to an environmental document.

(2) The supplement analysis should be brief and need only contain sufficient information for DOE to determine whether:

- (i) An existing environmental document should be supplemented;
- (ii) A new environmental document should be prepared; or
- (iii) No further NEPA documentation is required.

(3) DOE will make the determination and the related supplement analysis available to the public for information.

4.0 General

4.1 Classified, Confidential, and Otherwise Exempt Information

(a) Notwithstanding other sections of this part, DOE shall not disclose classified, confidential, or other information that DOE otherwise would not disclose pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552) and DOE's regulations implementing the FOIA (10 CFR 1004.10(b)).

(b) To the fullest extent possible, DOE will segregate any information that is exempt from disclosure requirements into an appendix to allow public review of the remainder of the NEPA document.

(c) If exempt information cannot be segregated, or if segregation would leave essentially meaningless material, DOE will withhold the entire NEPA document from the public; however, DOE will prepare the NEPA document and use it in DOE decision-making.

4.2 Appendices

If DOE prepares an appendix, DOE will publish it with the NEPA document. Appendices are to be used for voluminous materials, such as scientific tables, collections of data, statistical calculations, and the like, which substantiate the analysis provided in the environmental assessment. Appendices are not to be used to provide additional substantive analysis, because that would circumvent the congressionally mandated page limits.

Materials may include:

(a) Material prepared in connection with the NEPA document (as distinct from material that is not so prepared and is incorporated by reference (section 3.4)).

(b) Data, brief descriptions of methodology, and other material substantiating any analysis fundamental to the NEPA document, but not analysis. Analysis of environmental effects will be included in the body of the NEPA document.

(c) Comments (or summaries thereof where the response has been exceptionally voluminous) received during the NEPA process and DOE's response to those comments.

4.3 Unique Identification Numbers

For all environmental documents, DOE will provide a unique identification number for tracking purposes, which DOE will reference on all associated environmental review documents prepared for the proposed agency action and in any database or tracking system for such documents. DOE will coordinate with the CEQ and other Federal agencies to ensure compatibility of such identification numbers across Federal agencies.

4.4 Emergencies

Where emergency circumstances make it necessary to take an action with reasonably foreseeable significant environmental effects without observing the provisions of these procedures, DOE will consult with CEQ about alternative arrangements for

compliance with NEPA. In other emergency circumstances, DOE will determine how best to comply with NEPA, including any necessary variance from these DOE NEPA implementing procedures, and notify CEQ about the emergency circumstances and DOE's plan for NEPA compliance.

5.0 Establishing, Adopting, and Applying Categorical Exclusions

Categorical exclusions provide a mechanism to identify types of Federal actions that normally do not have significant environmental effects and for which neither an environmental assessment nor environmental impact statement is normally required. This ensures that resources are not expended conducting environmental analysis of proposals that do not present potential for significant environmental impacts. Categorical exclusions established or adopted by DOE are listed in appendices B–C of these procedures.

(a) All categorical exclusions may be applied by any DOE office. The sectional divisions in appendix B are solely for purposes of organization of that appendix and are not intended to be limiting.

(b) A class of actions includes activities foreseeably necessary to proposals encompassed within the class of actions (such as award of implementing grants and contracts, site preparation, purchase and installation of equipment, and associated transportation activities).

5.1 Establishing and Revising Categorical Exclusions

(a) To establish or revise a categorical exclusion, DOE must determine that the category of actions normally does not significantly affect the quality of the human environment (42 U.S.C. 4336e(1)). In making this determination, DOE shall:

(1) Develop a written record containing information to substantiate its determination;

(2) Consult with CEQ on its proposed new or revised categorical exclusion, including the written record, for a period not to exceed 30 days prior to providing public notice as described in subparagraph (3); and

(3) Provide public notice in the **Federal Register** of DOE's establishment or revision of any categorical exclusion, including the address of the website where the written record is available (energy.gov/nepa).

(b) If DOE becomes aware of substantial new information about the environmental effects of actions included in an existing categorical exclusion, DOE will determine whether to retain, revise, or remove that categorical exclusion.

(c) DOE will look for opportunities to forego a 30-day consultation process when, consistent with its statutory authority and because of the substantial deference courts give DOE under the *Seven County* decision when doing so is deemed a well-reasoned decision.

5.2 Adopting Another Agency's Categorical Exclusion

(a) Consistent with NEPA (42 U.S.C. 4336c), DOE may adopt a categorical exclusion listed in another agency's NEPA procedures. Once adopted, the categorical exclusion is available for use by all DOE

offices. When adopting a categorical exclusion, DOE shall:

(1) Identify the categorical exclusion listed in another agency's NEPA procedures that covers DOE's category of proposed or related actions;

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

(3) Provide public notification of the categorical exclusion that DOE is adopting, including a brief description of the proposed action or category of proposed actions to which DOE intends to apply the adopted categorical exclusion. DOE shall publish a notice of its adoption on DOE's website at energy.gov/nepa. This notice should explain how DOE intends to use the adopted categorical exclusion (e.g., types of projects, process for considering extraordinary circumstances, and public notice of categorical exclusion determinations), and a brief description of the agencies' consultation; and

(4) DOE will list adopted categorical exclusions in appendix C of these procedures.

(b) If the establishing agency revises a categorical exclusion that DOE has adopted, DOE will determine whether to retain the categorical exclusion as adopted, or to remove the adopted categorical exclusion and adopt the revised categorical exclusion.

(c) After adoption of another agency's categorical exclusion, DOE may decide to follow the process described in section 5.1 to establish it as a DOE categorical exclusion. This could allow, for example, DOE to modify the text of the categorical exclusion to better fit DOE's programs and activities. Otherwise, the categorical exclusion remains as written by the establishing agency.

5.3 Removing a Categorical Exclusion

(a) To remove a categorical exclusion from DOE's NEPA procedures, DOE will:

(1) Develop a written justification for the removal;

(2) Consult with CEQ on its proposed removal of the categorical exclusion, including the written justification for the removal, for a period not to exceed 30 days prior to providing public notice as described in subparagraph (3); and

(3) Provide public notice of DOE's removal of the categorical exclusion in the **Federal Register** and include the written justification or a link to where that justification is available on DOE's website.

5.4 Applying One or More Categorical Exclusions to a Proposal

(a) Proposed recurring activities to be undertaken during a specified time period, such as routine maintenance activities for a year, may be addressed in a single categorical exclusion determination after considering the potential aggregated impacts.

(b) The following clarifications are provided to assist in the appropriate application of categorical exclusions that employ these terms or phrases:

(1) "Previously disturbed or developed" refers to land that has been changed such that its functioning ecological processes have

been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to non-native species or a managed state, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available.

(2) DOE considers terms such as "small" and "small-scale" in the context of the particular proposal, including its proposed location. In assessing whether a proposed action is small, in addition to the actual magnitude of the proposal, DOE considers factors such as industry norms, the relationship of the proposed action to similar types of development in the vicinity of the proposed action, and expected outputs of emissions or waste. When considering the physical size of a proposed facility, for example, DOE would review the surrounding land uses, the scale of the proposed facility relative to existing development, and the capacity of existing roads and other infrastructure to support the proposed action.

(c) To find that a proposal is categorically excluded, DOE shall affirmatively determine the factors listed below. When applying more than one categorical exclusion to a proposal, DOE shall consider these factors for the full scope of the proposal and the collective scope of the categorical exclusions.

(1) The proposal fits within one or more classes of actions listed in appendices B–C of these procedures;

(2) The proposal has not been segmented to meet the definition of a categorical exclusion. Segmentation can occur when a proposal is broken down into small parts in order to avoid the appearance of significance of the total action. However, segmentation does not include proposals that are developed and potentially implemented over multiple phases where each phase results in a decision whether to proceed to the subsequent phase.

(3) There are no extraordinary circumstances related to the proposal that indicate a normally excluded agency action is likely to have a reasonably foreseeable significant adverse effect. It is not the presence of an extraordinary circumstance that precludes application of a categorical exclusion, but rather application of a categorical exclusion is not possible only when DOE concludes that the extraordinary circumstance is likely to cause a reasonably foreseeable significant adverse effect or that DOE does not know the environmental effect of the extraordinary circumstance. DOE or an applicant may modify the proposal to avoid reasonably foreseeable adverse significant effects such that the categorical exclusion would apply. Extraordinary circumstances are unique situations presented by specific proposals, including, but not limited to, uncertain effects or effects involving unique or unknown risks.

(d) DOE will document its determination that one or more categorical exclusions applies to a proposed agency action for any application of a categorical exclusion included in appendices B or C of these procedures.

(e) Categorical exclusion determinations for actions listed in appendix B shall be

documented and made available to the public by posting online, generally within two weeks of the determination, unless additional time is needed in order to review and protect classified information, “confidential business information,” or other information that DOE would not disclose pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552). Posted categorical exclusion determinations shall not disclose classified information, “confidential business information,” or other information that DOE would not disclose pursuant to FOIA. (See also section 4.1)

(f) If DOE determines that it cannot apply one or more categorical exclusions to the proposed action, DOE shall prepare an environmental assessment or environmental impact statement, as required (section 2.2(c)).

5.5 Relying on Another Agency's Categorical Exclusion Determination

DOE may rely on another agency's determination that a categorical exclusion applies to a particular proposed agency action if the agency action covered by that determination and DOE's proposed action are substantially the same.

(a) DOE will coordinate with the agency that made the categorical exclusion determination to ensure that the agency is aware of DOE's intended reliance on its categorical exclusion determination and has had an opportunity to provide input to DOE.

(b) DOE should confirm that reliance on the categorical exclusion determination does not conflict with DOE's NEPA implementing procedures. This would entail consideration of DOE's extraordinary circumstances (section 5.4), integral elements (appendix B), and any relevant categorical exclusions listed in appendix B of these procedures.

(c) DOE will document its reliance on another agency's categorical exclusion determination and post that documentation on DOE's website. That documentation should include the other agency's categorical exclusion determination and a brief explanation of how DOE's proposed action is substantially the same as that of the agency that made the categorical exclusion determination.

6.0 Preparing an Environmental Assessment

If an action is subject to NEPA (section 2.1) and an environmental assessment is the required level of NEPA review (section 2.2), DOE shall prepare an environmental assessment with respect to the proposed agency action following NEPA and the procedures described herein.

6.1 Public Engagement in Preparation of an Environmental Assessment

(a) DOE may publish a notice of intent to prepare an environmental assessment or other public notice to request scoping comments on the environmental assessment.

6.2 Contents of an Environmental Assessment

(a) The scope and level of detail shall be consistent with the narrow purpose of an environmental assessment, *i.e.*, to determine whether any reasonably foreseeable effects of the proposal are likely to be significant and set forth the basis of DOE's finding of no

significant impact or determination that an environmental impact statement is required. In preparing the environmental assessment, DOE will focus its analysis on whether the environmental effects of the action or project at hand are significant. As appropriate, DOE will document in the environmental assessment where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the action. NEPA directs that environmental assessments are to be “concise” and conform to the page limits (42 U.S.C. 4336(b)(2) and § 4336a(e)(2)) and time limits (42 U.S.C. 4336a(g)) established in the law.

(b) DOE shall include in an environmental assessment a brief discussion of the following topics:

(1) Purpose and need for the proposed action based on DOE's statutory authority. When the proposed action involves a response to an applicant's proposal, the purpose and need shall be informed by the goals of the applicant;

(2) The proposed action, a reasonable number of alternatives to the extent required by NEPA (42 U.S.C. 4332(2)(F) and 4332(2)(H)), and no action alternative (which may be encompassed within the discussion of the affected environment);

(3) An explanation why particular environmental effects would not result in significant impact and, thus, are not further analyzed in the environmental assessment (section 3.2); and

(4) The reasonably foreseeable effects of the proposed agency action and the alternatives evaluated sufficiently to determine whether any of the effects are likely to be significant and whether any significant effects can be made non-significant through mitigation.

6.3 Page Limits

(a) DOE shall conform to page limits established in NEPA (42 U.S.C. 4336(e)(2)) and as described in this section.

(1) The text of an environmental assessment is strictly prohibited from exceeding 75 pages, not including citations or appendices. NEPA does not provide agencies with the authority or a mechanism to exceed this page limit.

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

(3) Environmental assessments shall be formatted for an 8.5" x 11" page with one-inch margins using a 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information. When an item of graphical material is larger than 8.5" x 11", each such item shall count as one page.

(4) Certification Related to Page Limits. The breadth and depth of analysis in an environmental assessment shall be tailored to

ensure that the environmental analysis does not exceed this 75-page limit. As part of the finalization of the environmental assessment, a responsible official shall certify (and the certification shall be incorporated into the environmental assessment) that DOE has considered the factors mandated by NEPA; that the environmental assessment represents DOE's good-faith effort to prioritize documentation of the most important considerations required by the statute within the Congressionally mandated page limits; that this prioritization reflects DOE's expert judgment; and that any considerations addressed briefly or left unaddressed were, in DOE's judgment, comparatively not of a substantive nature that meaningfully informed the consideration of environmental effects and the resulting decision.

(5) DOE recognizes that NEPA imposes no substantive environmental obligations or restrictions because it is a purely procedural statute that requires an agency to prepare a report, as stated in the *Seven County* decision, *supra*. DOE is encouraged to maximize its substantial discretion to not only stay within the page limits but also to limit lengthy appendices.

6.4 Deadlines

(a) As the Supreme Court has repeatedly held, NEPA is governed by a “rule of reason.” Congress supplied the measure of that reason in the 2003 revision of NEPA by setting the deadlines in NEPA 107(g), 42 U.S.C. 4336a(g). These deadlines indicate Congress's determination that an agency has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances, an extension will be given only for such time as is *necessary* to complete the analysis.

To effectively support decision making for proposals initiated within DOE and for proposals brought to DOE by applicants for financial assistance or other authorization, NEPA must be implemented through predictable and reasonable timelines.¹⁰ Thus, NEPA directs that Federal agencies will complete each environmental assessment not later than the date that is one year after the sooner of:

(1) The date on which DOE determines that NEPA requires the preparation of an environmental assessment with respect to the proposal;

(2) The date on which DOE notifies the applicant that the application to establish a right-of-way for the proposal is complete; and

(3) The date on which DOE issues a notice of intent to prepare the environmental assessment for the proposal. (42 U.S.C. 4336a(g)(1)(B))

(b) DOE should document the start date of each environmental assessment in writing and approved by the DOE official responsible for completing the environmental assessment on schedule. This documentation will assist DOE in tracking the schedule and preparing

¹⁰ “Time and resources are simply too limited for us to believe that Congress intended” consideration under NEPA to extend indefinitely. *Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 776 (1983) (citing *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 551 (1978)).

the report to congressional committees required by NEPA (42 U.S.C. 4336a(h)). The start date normally will be the date that DOE determines that preparation of an environmental assessment is required (option (a)(1) above). DOE does not receive applications to establish a right-of-way (though this option might be relevant in circumstances when DOE is participating with another Federal agency). If DOE were to issue a notice of intent to prepare an environmental assessment, that normally would follow DOE's determination that an environmental assessment is required.

(c) If DOE determines it is not able to meet the one-year deadline, it must consult with the applicant, if any (42 U.S.C. 4336a(g)(2)). After such consultation, if needed, DOE may establish a new deadline that provides only so much additional time as is necessary to complete the environmental assessment. The deadline extension should be approved, in writing, by the DOE official responsible for completing the environmental assessment on schedule. This documentation will assist DOE in tracking the schedule and preparing the report to congressional committees required by NEPA (42 U.S.C. 4336a(h)).

Cause for setting a new deadline is only established if the EA is not sufficiently researched and written to support a FONSI or NOI to prepare an EIS. The announcement of the new deadline shall specify the reason why the environmental assessment was not able to be completed under the statutory deadline.

(d) DOE shall calculate environmental assessment schedules from the applicable start date to issuance of the environmental assessment.

(e) DOE should publish the environmental assessment, at the latest, on the day the deadline elapses, in as substantially complete form as is possible.

(f) Certification Related to Deadline. When the environmental assessment is published, a responsible DOE official should certify (and the certification will be incorporated into the environmental assessment) that the resulting environmental assessment represents DOE's good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; that, in DOE's expert opinion, the analysis contained therein is adequate to inform and reasonably explain DOE's final decision regarding the proposed action.

6.5 Findings of No Significant Impact

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

- (1) Include the environmental assessment or incorporate it by reference;
- (2) Document the reasons why DOE has determined that the selected alternative will not have a significant effect on the quality of the human environment;
- (3) State the authority for any mitigation that DOE has adopted and any applicable monitoring or enforcement provisions. If DOE finds no significant effects based on

mitigation, the mitigated finding of no significant impact shall state any mitigation requirements enforceable by the agency (e.g., through conditions on awards or contractor requirements) or voluntary mitigation commitments that will be undertaken to avoid significant effects;

(4) Identify any other documents related to the finding of no significant impact; and

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

(b) DOE shall make each environmental assessment and finding of no significant impact available to the public by posting on its website.

7.0 Preparing an Environmental Impact Statement

If an action is subject to NEPA (section 2.1) and an environmental impact statement is the required level of NEPA review (section 2.2), DOE shall prepare an environmental impact statement with respect to the proposed agency action following NEPA and the procedures described herein.

7.1 Notice of Intent and Scoping

(a) As a preliminary step to determining whether, in connection with a proposal that is not excluded pursuant to a categorical exclusion, DOE will prepare an environmental assessment or an environmental impact, DOE will determine and document the scope of the project at hand.

(b) DOE should publish a concise notice of intent to prepare an environmental impact statement as soon as practicable after determining that an environmental impact statement is required for a proposed agency action. This is important to ensure timely decision making and because the two-year deadline for completing the environmental impact statement will typically be measured from the date that DOE determined that an environmental impact statement is required (section 7.7).

(c) The notice of intent shall include a request for public comment on alternatives or effects and on relevant information, studies, or analyses with respect to the proposed agency action (42 U.S.C. 4336a(c)). The notice of intent also should include information to inform the public in preparing comments, such as:

- (1) The purpose and need for the proposed action (section 7.2);
- (2) A preliminary description of the proposed action and reasonable alternatives expected to be analyzed;
- (3) A brief summary of environmental effects that DOE expects to analyze and identification of those environmental effects that DOE anticipates are not likely to be significant and, therefore, not analyzed in detail;
- (4) Anticipated permits and other authorizations required for the proposed action and reasonable alternatives to proceed (e.g., connected actions);
- (5) A schedule for the decision-making process that is consistent with the deadlines for an environmental impact statement established in NEPA. There is no statutory requirement or otherwise to post a draft EIS for public comment;

(6) A description of planned opportunities for engagement by Tribes, the public, and other parties, including any scoping meeting(s), the end date for the public comment period, and whether DOE anticipates releasing a draft environmental impact statement or related materials;

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

(8) Contact information for a person within DOE who can answer questions about the proposed action and the environmental impact statement.

(6) A description of planned opportunities for engagement by Tribes, the public, and other parties, including any scoping meeting(s), the end date for the public comment period, and whether DOE anticipates releasing a draft environmental impact statement or related materials;

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

(8) Contact information for a person within DOE who can answer questions about the proposed action and the environmental impact statement.

7.2 Purpose and Need

DOE shall include in the environmental impact statement a brief summary of the underlying of purpose and need for the proposed agency action based on DOE's statutory authority. (42 U.S.C. 4336(d)) When the proposed agency action concerns DOE's duty to act on an application for authorization of financial assistance or other purposes, the purpose and need for the proposed agency action should be informed by the goals of the applicant.

7.3 Alternatives in an Environmental Impact Statement

(a) NEPA requires that an environmental impact statement include "a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal." (42 U.S.C. 4332(C)(iii)) Accordingly, in all environmental impact statements, DOE shall analyze:

- (1) the proposed action;
- (2) a reasonable range of technically and economically feasible alternatives that meet the purpose and need of the proposal and, where applicable, meet the goals of the applicant; and
- (3) no action, which may be limited to an analysis of negative environmental effects of not implementing the proposed action.

(b) DOE shall identify the reasonable range of alternatives on a project-by-project basis. To be included within the reasonable range of alternatives, the evaluation of that alternative should contribute to DOE's decision making.

(c) For any alternative that DOE considered but determined not to analyze in detail, DOE will provide a brief explanation of why the alternative was not included among the reasonable range of alternatives in the environmental impact statement. DOE should include this explanation in the environmental impact statement.

7.4 Contents of an Environmental Impact Statement

(a) An environmental impact statement shall demonstrate DOE's consideration of:

- (1) reasonably foreseeable environmental effects of the proposed agency action;
- (2) any reasonably foreseeable adverse environmental effects which cannot be

avoided should the proposal be implemented;

(3) a reasonable range of alternatives to the proposed agency action, including an analysis of any adverse environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal;

(4) the relationship between local short-term impacts on the human environment and the maintenance and enhancement of long-term productivity;

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

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

(b) In preparing the environmental impact statement, DOE will focus its analysis on whether the environmental effects of the action or project at hand are significant. DOE will document in the environmental impact statement where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the action or project at hand that extend outside the geographical territory of the project or might materialize later in time.

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

7.5 Receipt of Comments

During the process of preparing an environmental impact statement, DOE will seek the comments of any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved. As appropriate, DOE will seek the comments of State, Tribal, and local agencies that may be affected by the proposed action. In addition, DOE may seek comments if it believes such comments will aid in discharging its duties under NEPA.

7.6 Page Limits

(a) The text of an environmental impact statement shall not exceed 150 pages, not including citations or appendices, unless the proposal is of extraordinary complexity, in which case the text is strictly prohibited from exceeding 300 pages, not including any citations or appendices (42 U.S.C. 4336(e)(1)). NEPA provides no method for an agency to extend the latter page limit.

(b) Environmental impact statements should be formatted for an 8.5" x 11" page

with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit. When an item of graphical material is larger than 8.5" x 11", each such item shall count as one page.

(c) Certification Related to Page Limits. The breadth and depth of analysis in an environmental impact statement shall be tailored to ensure that the environmental impact statement does not exceed these page limits. In this regard, as part of the finalization of the environmental impact statement, a responsible official should certify that DOE has considered the factors mandated by NEPA; that the environmental impact statement represents DOE's good-faith effort to prioritize documentation of the most important considerations required by the statute within the Congressionally mandated page limits; that this prioritization reflects DOE's expert judgment; and that any considerations addressed briefly or left unaddressed were, in DOE's judgment, comparatively unimportant or frivolous.

7.7 Deadlines

(a) As the Supreme Court has repeatedly held, NEPA is governed by a "rule of reason." Congress supplied the measure of that reason in the 2023 revision of NEPA by setting the deadlines in NEPA 107(6), 42 U.S.C. 4336a(g). These deadlines indicate Congress's determination that an agency, working within Congress's allocation of resources, has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances, an extension will be given only for such time as is necessary to complete the analysis.

To effectively support decision making for proposals initiated within DOE and for proposals brought to DOE by applicants for financial assistance or other authorization, NEPA must be implemented through a predictable and reasonable schedule.¹¹ Thus, NEPA directs that Federal agencies will complete each environmental impact statement not later than the date that is two years after the earlier of:

(1) The date on which DOE determines that NEPA requires the preparation of an environmental impact statement with respect to the proposal;

(2) The date on which DOE notifies the applicant that the application to establish a right-of-way for the proposal is complete; and

(3) The date on which DOE issues a notice of intent to prepare the environmental impact statement for the proposal. (42 U.S.C. 4336a(g)(1)(A))

(b) DOE should document the start date of each environmental impact statement in

writing and approved by the DOE official responsible for completing the environmental impact statement on schedule. This documentation will assist DOE in tracking the schedule and preparing the report to congressional committees required by NEPA (42 U.S.C. 4336a(h)). The start date normally will be the date that DOE determines that preparation of an environmental impact statement is required (option (a)(1) above). DOE does not receive applications to establish a right-of-way (though this option might be relevant in circumstances when DOE is participating with another Federal agency). If DOE were to issue a notice of intent to prepare an environmental impact statement, that normally would follow DOE's determination that an environmental impact statement is required.

(c) DOE shall calculate environmental impact statement schedules from the applicable start date to the date of publication by the U.S. Environmental Protection Agency in the **Federal Register** of a notice of availability of the environmental impact statement as the end date. Where DOE has prepared an environmental assessment that results in a decision to prepare an EIS, DOE will use the start date for the environmental assessment as the start date for the EIS unless it exercises its discretion to determine otherwise by direction of DOE leadership.

(d) DOE will strive to publish the EIS, complete, as soon as possible. DOE should publish the environmental impact statement, at the latest, on the day the deadline elapses, in as substantially complete form as is possible.

(e) If DOE determines it is not able to meet the two-year deadline, it must consult with the applicant, if any (42 U.S.C. 4336a(g)(2)). After such consultation, if needed, DOE may establish a new deadline that provides only so much additional time as is necessary to complete the environmental impact statement. The deadline extension should be approved, in writing, by the DOE official responsible for completing the environmental impact statement on schedule. This documentation will assist DOE in tracking the schedule and preparing the report to congressional committees required by NEPA (42 U.S.C. 4336a(h)).

Cause for setting a new deadline is only established if the environmental impact statement is not sufficiently developed to support a Record of Decision. The announcement of the new deadline shall specify the reason why the environmental impact statement was not able to be completed under the statutory deadline.

(f) Certification Related to Deadlines. When the environmental impact statement is published, a responsible DOE official should certify (and the certification will be incorporated into the environmental impact statement) that the resulting environmental impact statement represents DOE's good faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; and that, in DOE's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that in DOE's judgement the analysis contained therein is adequate to inform and reasonably

¹¹ "Time and resources are simply too limited for us to believe that Congress intended" consideration under NEPA to extend indefinitely. *Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 776 (1983) (citing *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 551 (1978)).

explain DOE's final decision regarding the proposed Federal action.

7.8 Publication of an Environmental Impact Statement

It is the policy of DOE to undertake no obligation beyond those required by NEPA in the creation and publication of an EIS. NEPA should not unnecessarily obstruct projects, create inefficiencies, or add costs that are not mandated by statute.

(a) DOE shall file each environmental impact statement together with comments and responses it solicited with the U.S. Environmental Protection Agency (EPA), Office of Federal Activities, following EPA's filing guidance (<https://www.epa.gov/nepa/environmental-impact-statement-filing-guidance>). EPA will include the EIS in its weekly notice of availability published in the **Federal Register**.

(b) DOE shall publish the entire environmental impact statement, including any appendices, and DOE's decision by posting it on DOE's website consistent with NEPA (42 U.S.C. 4332(c)). During the process of preparing the environmental impact statement, DOE also may publish on its website or a website developed by a contractor such draft materials as in DOE's judgment may assist in fulfilling its responsibilities under NEPA and these procedures.

7.9 Decision

(a) DOE's decision shall come from analyzed alternatives.

(b) DOE's decision may be described in a record of decision or incorporated into a separate decision document (e.g., a DOE order).

(c) DOE's decision may be made concurrently with or at any time after the environmental impact statement is made publicly available.

8.0 Definitions

As used in these implementing procedures, terms have the meanings provided in NEPA § 111, 42 U.S.C. 4336e. In addition:

Appendix means additional matter placed at the end of a NEPA document or in a separate volume that provides support for analysis in the NEPA document but does not include analysis of environmental effects.

Applicant means a non-Federal entity requesting financial assistance or other authorization from DOE. This has the same meaning as "project sponsor" as used in NEPA.

Authorization means any license, permit, approval, finding, determination, or other administrative decision issued by an agency that is required or authorized under Federal law in order to implement a proposed action.

CEQ means the Council on Environmental Quality.

CERCLA-excluded petroleum and natural gas products means petroleum, including crude oil or any fraction thereof, that is not otherwise specifically listed or designated as a hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601.101(14)) and natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel

or of pipeline quality (or mixtures of natural gas and such synthetic gas).

Connected action means a separate Federal action within the authority of DOE that is closely related to the proposed agency action and should be addressed in a single environmental document because the proposed agency action::

(i) Automatically triggers the separate Federal action, which independently would require the preparation of additional environmental documents;

(ii) Cannot proceed unless the separate Federal action is taken previously or simultaneously; or

(iii) Is an interdependent part of a larger Federal action that includes a separate Federal action, which mutually depend on the larger Federal action for their justification.

Contaminant means a substance identified within the definition of contaminant in section 101(33) of CERCLA (42 U.S.C. 9601.101(33)).

Day means a calendar day.

DOE means the U.S. Department of Energy.

Early scoping means the period after identifying that a proposal requires NEPA review (section 2.1) and prior to DOE determining the required level of NEPA review (section 2.2). DOE may conduct this process internally and may involve external parties at its discretion.

Effects or impacts means changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives. The terms **effects** and **impacts** are used interchangeably.

(1) Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects. Effects appropriate for analysis under NEPA may be either beneficial or adverse, or both, with respect to these values.

(2) A "but for" causal relationship is insufficient to make an agency responsible for a particular effect under NEPA. Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include those effects that the agency has no ability to prevent due to the limits of its regulatory authority, or that would occur regardless of the proposed action, or that would need to be initiated by a third party.

Hazardous substance means a substance identified within the definition of hazardous substances in section 101(14) of CERCLA (42 U.S.C. 9601.101(14)). Radionuclides are hazardous substances through their listing under section 112 of the Clean Air Act (42 U.S.C. 7412) (40 CFR part 61, subpart H).

Human environment means comprehensively the natural and physical environment and the relationship of present and future generations of Americans with that environment.

Interim action means an action concerning a proposal that is the subject of an ongoing NEPA review and that DOE proposes to take before that NEPA review is complete, and that is permissible under NEPA.

Jurisdiction by law means agency authority to approve, veto, or finance all or part of the proposal.

Mitigation means measures that avoid, minimize, or compensate for effects caused by a proposed action or alternatives as described in an environmental document or record of decision and that have a nexus to those effects. NEPA does not mandate the form or adoption of any mitigation. Mitigation includes:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action.

(2) Minimizing effects by limiting the degree or magnitude of the action and its implementation.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(5) Compensating for the impact by replacing or providing substitute resources or environments.

NEPA means the National Environmental Policy Act, as amended (42 U.S.C. 4321, *et seq.*).

NEPA document means a DOE notice of intent (NOI), environmental impact statement (EIS), record of decision (ROD), environmental assessment (EA), finding of no significant impact (FONSI), supplement analysis (SA), categorical exclusion (CX) determination, or any other document prepared pursuant to a requirement of NEPA or these procedures.

NEPA process or NEPA review means all measures necessary for compliance with the requirements of NEPA.

Notice of Availability means a formal notice, published by EPA in the **Federal Register**, that announces the issuance and public availability of a draft or final EIS. A DOE Notice of Availability is an optional notice used to provide information to the public that may be published in the **Federal Register** or otherwise made publicly available.

Notice of early scoping means an optional public notice that DOE has identified a proposed action and is soliciting input to help DOE determine the scope of analysis and appropriate type of NEPA review.

Notice of intent means a public notice that an agency will prepare and consider an environmental document.

Pollutant means a substance identified within the definition of pollutant in section 101(33) of CERCLA (42 U.S.C. 9601.101(33)).

Program means a sequence of connected or related DOE actions or projects.

Project means a specific DOE undertaking including actions approved by permit or other regulatory decision as well as Federal and federally assisted activities, which may include design, construction, and operation of an individual facility; research, development, demonstration, and testing for a process or product; financial assistance or funding for a facility, process, or product; or similar activities.

Proposed agency action or proposed action means the decision to be made by DOE or another Federal agency. For example, in common usage, an applicant's proposal

might be to construct and operate a facility, and DOE's proposed action might be to provide financial assistance to the applicant for that proposal.

Publish and *publication* mean methods used by DOE to efficiently and effectively make environmental documents and information available for review by interested persons, including electronic publication.

Reasonable alternatives means a reasonable range of alternatives that are technically and economically feasible, meet the purpose and need for the proposed action, and, where applicable, meet the goals of the applicant.

Reasonably foreseeable means sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.

Related action means an action undertaken by an agency, e.g., a permitting action, some other type of authorization action, an analysis required by statute, or the like, that bears a relationship to other actions undertaken by other agencies relevant to NEPA, e.g., that a set of related actions are all related to one overarching project.

ROD means a Record of Decision.

Scope consists of the range of actions, alternatives, and effects to be considered in an environmental document. The scope of an individual statement may depend on its relationships to other statements.

Scoping means the process, whether internal or public, to identify the scope of the NEPA review.

Site-wide NEPA document means a broad-scope environmental impact statement or environmental assessment that identifies and assesses the impacts of ongoing and reasonably foreseeable future actions at a DOE site; it may also refer to an associated NEPA document, such as a notice of intent, record of decision, or finding of no significant impact.

Special expertise means statutory responsibility, agency mission, or related program experience. (42 U.S.C. 4336e(13))

Substantially the same means that DOE and another agency are proposing actions related to the same project. For example, one agency has permitting authority and the other agency proposes to provide financial support for the same project. For another example, an agency has requested DOE assistance to work on a site, facility, or land managed by or under the jurisdiction of the requesting agency.

Supplement Analysis means a DOE document used to determine whether a supplemental EIS should be prepared (section 3.9), or to support a decision to prepare a new EIS.

Supplemental EIS means an EIS prepared to supplement a prior EIS (section 3.9).

The Secretary means the Secretary of Energy.

Tiering refers to the coverage of general matters in broader environmental impact statements or environmental assessments (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basin-wide program statements or ultimately site-specific statements) incorporating by reference the general

discussions and concentrating solely on the issues specific to the statement subsequently prepared.

Appendix A: Administrative and Routine Actions Excepted From NEPA Review

[These actions were formerly identified as categorical exclusions in appendix A of subpart D in DOE's regulations. They now represent actions that are excepted from NEPA based on the definition of "major Federal action" in Section 110(10). They have been retained as appendix A for ease of reference and to avoid confusion.]

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A1 Routine DOE Business Actions

Routine actions necessary to support the normal conduct of DOE business limited to administrative, financial, and personnel actions.

A2 Clarifying or Administrative Contract Actions

Contract interpretations, amendments, and modifications that are clarifying or administrative in nature.

A3 Certain Actions by Office of Hearings and Appeals

Adjustments, exceptions, exemptions, appeals and stays, modifications, or rescissions of orders issued by the Office of Hearings and Appeals.

A4 Interpretations and Rulings for Existing Regulations

Interpretations and rulings with respect to existing regulations, or modifications or rescissions of such interpretations and rulings.

A5 Interpretive Rulemakings With No Change in Environmental Effect

Rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended.

A6 Procedural Rulemakings

Rulemakings that are strictly procedural, including, but not limited to, rulemaking (under 48 CFR chapter 9) establishing procedures for technical and pricing proposals and establishing contract clauses and contracting practices for the purchase of goods and services, and rulemaking (under 10 CFR part 600) establishing application and review procedures for, and administration, audit, and closeout of, grants and cooperative agreements.

A7 [Reserved]

A8 Awards of Certain Contracts

Awards of contracts for technical support services, management and operation of a government-owned facility, and personal services.

A9 Information Gathering, Analysis, and Dissemination

Information gathering (including, but not limited to, literature surveys, inventories, site visits, and audits), data analysis (including, but not limited to, computer modeling), document preparation (including, but not limited to, conceptual design, feasibility studies, and analytical energy supply and demand studies), and information dissemination (including, but not limited to, document publication and distribution, and classroom training and informational programs), but not including site characterization or environmental monitoring. (See also B3.1 of appendix B to these procedures.)

A10 Reports and Recommendations on Non-DOE Legislation

Reports and recommendations on legislation or rulemaking that are not proposed by DOE.

A11 Technical Advice and Assistance to Organizations

Technical advice and planning assistance to international, national, state, and local organizations.

A12 Emergency Preparedness Planning

Emergency preparedness planning activities, including, but not limited to, the designation of onsite evacuation routes.

A13 Procedural Documents

Administrative, organizational, or procedural Policies, Orders, Notices, Manuals, and Guides.

A14 Approval of Technical Exchange Arrangements

Approval of technical exchange arrangements for information, data, or personnel with other countries or international organizations (including, but not limited to, assistance in identifying and analyzing another country's energy resources, needs and options).

A15 International Agreements for Energy Research and Development

Approval of DOE participation in international "umbrella" agreements for cooperation in energy research and development activities that would not

commit the U.S. to any specific projects or activities.

Appendix B: Categorical Exclusions Applicable to Specific Agency Actions

[These categorical exclusions are copied from DOE's existing regulations.]

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B. Conditions That Are Integral Elements of the Classes of Actions in Appendix B

The classes of actions listed below include the following conditions as integral elements of the classes of actions. To fit within the classes of actions listed below, a proposal must be one that would not:

(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders;

(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities;

(3) Disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products

that preexist in the environment such that there would be uncontrolled or unpermitted releases;

(4) Have the potential to cause significant impacts on environmentally sensitive resources. An environmentally sensitive resource is typically a resource that has been identified as needing protection through Executive Order, statute, or regulation by Federal, state, or local government, or a Federally recognized Indian tribe. An action may be categorically excluded if, although sensitive resources are present, the action would not have the potential to cause significant impacts on those resources (such as construction of a building with its foundation well above a sole-source aquifer or upland surface soil removal on a site that has wetlands). Environmentally sensitive resources include, but are not limited to:

(i) Property (such as sites, buildings, structures, and objects) of historic, archeological, or architectural significance designated by a Federal, state, or local government, Federally recognized Indian tribe, or Native Hawaiian organization, or property determined to be eligible for listing on the National Register of Historic Places;

(ii) Federally-listed threatened or endangered species or their habitat (including critical habitat) or Federally-proposed or candidate species or their habitat (Endangered Species Act); state-listed or state-proposed endangered or threatened species or their habitat; Federally-protected marine mammals and Essential Fish Habitat (Marine Mammal Protection Act; Magnuson-Stevens Fishery Conservation and Management Act); and otherwise Federally-protected species (such as the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act);

(iii) Floodplains and wetlands (as defined in 10 CFR 1022.4, "Compliance with Floodplain and Wetland Environmental Review Requirements: Definitions," or its successor);

(iv) Areas having a special designation such as Federally- and state-designated wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, state and Federal wildlife refuges, scenic areas (such as National Scenic and Historic Trails or National Scenic Areas), and marine sanctuaries;

(v) Prime or unique farmland, or other farmland of statewide or local importance, as defined at 7 CFR 658.2(a), "Farmland Protection Policy Act: Definitions," or its successor;

(vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and

(vii) Tundra, coral reefs, or rain forests; or

(5) Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those of the Department of Agriculture, the

Environmental Protection Agency, and the National Institutes of Health.

B1. Categorical Exclusions Applicable to Facility Operation

B1.1 Changing Rates and Prices

Changing rates for services or prices for products marketed by parts of DOE other than Power Marketing Administrations, and approval of rate or price changes for non-DOE entities, that are consistent with the change in the implicit price deflator for the Gross Domestic Product published by the Department of Commerce, during the period since the last rate or price change.

B1.2 Training Exercises and Simulations

Training exercises and simulations (including, but not limited to, firing-range training, small-scale and short-duration force-on-force exercises, emergency response training, fire fighter and rescue training, and decontamination and spill cleanup training) conducted under appropriately controlled conditions and in accordance with applicable requirements.

B1.3 Routine Maintenance

Routine maintenance activities and custodial services for buildings, structures, rights-of-way, infrastructures (including, but not limited to, pathways, roads, and railroads), vehicles and equipment, and localized vegetation and pest control, during which operations may be suspended and resumed, provided that the activities would be conducted in a manner in accordance with applicable requirements. Custodial services are activities to preserve facility appearance, working conditions, and sanitation (such as cleaning, window washing, lawn mowing, trash collection, painting, and snow removal). Routine maintenance activities, corrective (that is, repair), preventive, and predictive, are required to maintain and preserve buildings, structures, infrastructures, and equipment in a condition suitable for a facility to be used for its designated purpose. Such maintenance may occur as a result of severe weather (such as hurricanes, floods, and tornados), wildfires, and other such events. Routine maintenance may result in replacement to the extent that replacement is in-kind and is not a substantial upgrade or improvement. In-kind replacement includes installation of new components to replace outmoded components, provided that the replacement does not result in a significant change in the expected useful life, design capacity, or function of the facility. Routine maintenance does not include replacement of a major component that significantly extends the originally intended useful life of a facility (for example, it does not include the replacement of a reactor vessel near the end of its useful life). Routine maintenance activities include, but are not limited to:

(a) Repair or replacement of facility equipment, such as lathes, mills, pumps, and presses;

(b) Door and window repair or replacement;

(c) Wall, ceiling, or floor repair or replacement;

(d) Reroofing;

(e) Plumbing, electrical utility, lighting, and telephone service repair or replacement;

(f) Routine replacement of high-efficiency particulate air filters;

(g) Inspection and/or treatment of currently installed utility poles;

(h) Repair of road embankments;

(i) Repair or replacement of fire protection sprinkler systems;

(j) Road and parking area resurfacing, including construction of temporary access to facilitate resurfacing, and scraping and grading of unpaved surfaces;

(k) Erosion control and soil stabilization measures (such as reseeding, gabions, grading, and revegetation);

(l) Surveillance and maintenance of surplus facilities in accordance with DOE Order 435.1, "Radioactive Waste Management," or its successor;

(m) Repair and maintenance of transmission facilities, such as replacement of conductors of the same nominal voltage, poles, circuit breakers, transformers, capacitors, crossarms, insulators, and downed powerlines, in accordance, where appropriate, with 40 CFR part 761 (Polychlorinated Biphenyls Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions) or its successor;

(n) Routine testing and calibration of facility components, subsystems, or portable equipment (such as control valves, in-core monitoring devices, transformers, capacitors, monitoring wells, lysimeters, weather stations, and flumes);

(o) Routine decontamination of the surfaces of equipment, rooms, hot cells, or other interior surfaces of buildings (by such activities as wiping with rags, using strippable latex, and minor vacuuming), and removal of contaminated intact equipment and other material (not including spent nuclear fuel or special nuclear material in nuclear reactors); and

(p) Removal of debris.

B1.4 Air Conditioning Systems for Existing Equipment

Installation or modification of air conditioning systems required for temperature control for operation of existing equipment.

B1.5 Existing Steam Plants and Cooling Water Systems

Minor improvements to existing steam plants and cooling water systems (including, but not limited to, modifications of existing cooling towers and ponds), provided that the improvements would not: (1) Create new sources of water or involve new receiving waters; (2) have the potential to significantly alter water withdrawal rates; (3) exceed the permitted temperature of discharged water; or (4) increase introductions of, or involve new introductions of, hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products.

B1.6 Tanks and Equipment To Control Runoff and Spills

Installation or modification of retention tanks or small (normally under one acre) basins and associated piping and pumps for existing operations to control runoff or spills

(such as under 40 CFR part 112). Modifications include, but are not limited to, installing liners or covers. (See also B1.33 of this appendix.)

B1.7 Electronic Equipment

Acquisition, installation, operation, modification, and removal of electricity transmission control and monitoring devices for grid demand and response, communication systems, data processing equipment, and similar electronic equipment.

B1.8 Screened Water Intake and Outflow Structures

Modifications to screened water intake and outflow structures such that intake velocities and volumes and water effluent quality and volumes are consistent with existing permit limits.

B1.9 Airway Safety Markings and Painting

Placement of airway safety markings on, painting of, and repair and in-kind replacement of lighting on powerlines and antenna structures, wind turbines, and similar structures in accordance with applicable requirements (such as Federal Aviation Administration standards).

B1.10 Onsite Storage of Activated Material

Routine, onsite storage at an existing facility of activated equipment and material (including, but not limited to, lead) used at that facility, to allow reuse after decay of radioisotopes with short half-lives.

B1.11 Fencing

Installation of fencing, including, but not limited to border marking, that would not have the potential to significantly impede wildlife population movement (including migration) or surface water flow.

B1.12 Detonation or Burning of Explosives or Propellants After Testing

Outdoor detonation or burning of explosives or propellants that failed (duds), were damaged (such as by fracturing), or were otherwise not consumed in testing. Outdoor detonation or burning would be in areas designated and routinely used for those purposes under existing applicable permits issued by Federal, state, and local authorities (such as a permit for a RCRA miscellaneous unit (40 CFR part 264, subpart X)).

B1.13 Pathways, Short Access Roads, and Rail Lines

Construction, acquisition, and relocation, consistent with applicable right-of-way conditions and approved land use or transportation improvement plans, of pedestrian walkways and trails, bicycle paths, small outdoor fitness areas, and short access roads and rail lines (such as branch and spur lines).

B1.14 Refueling of Nuclear Reactors

Refueling of operating nuclear reactors, during which operations may be suspended and then resumed.

B1.15 Support Buildings

Siting, construction or modification, and operation of support buildings and support structures (including, but not limited to, trailers and prefabricated and modular

buildings) within or contiguous to an already developed area (where active utilities and currently used roads are readily accessible). Covered support buildings and structures include, but are not limited to, those for office purposes; parking; cafeteria services; education and training; visitor reception; computer and data processing services; health services or recreation activities; routine maintenance activities; storage of supplies and equipment for administrative services and routine maintenance activities; security (such as security posts); fire protection; small-scale fabrication (such as machine shop activities), assembly, and testing of non-nuclear equipment or components; and similar support purposes, but exclude facilities for nuclear weapons activities and waste storage activities, such as activities covered in B1.10, B1.29, B1.35, B2.6, B6.2, B6.4, B6.5, B6.6, and B6.10 of this appendix.

B1.16 Asbestos Removal

Removal of asbestos-containing materials from buildings in accordance with applicable requirements (such as 40 CFR part 61, "National Emission Standards for Hazardous Air Pollutants"; 40 CFR part 763, "Asbestos"; 29 CFR part 1910, subpart I, "Personal Protective Equipment"; and 29 CFR part 1926, "Safety and Health Regulations for Construction"; and appropriate state and local requirements, including certification of removal contractors and technicians).

B1.17 Polychlorinated Biphenyl Removal

Removal of polychlorinated biphenyl (PCB)-containing items (including, but not limited to, transformers and capacitors), PCB-containing oils flushed from transformers, PCB-flushing solutions, and PCB-containing spill materials from buildings or other aboveground locations in accordance with applicable requirements (such as 40 CFR part 761).

B1.18 Water Supply Wells

Siting, construction, and operation of additional water supply wells (or replacement wells) within an existing well field, or modification of an existing water supply well to restore production, provided that there would be no drawdown other than in the immediate vicinity of the pumping well, and the covered actions would not have the potential to cause significant long-term decline of the water table, and would not have the potential to cause significant degradation of the aquifer from the new or replacement well.

B1.19 Microwave, Meteorological, and Radio Towers

Siting, construction, modification, operation, and removal of microwave, radio communication, and meteorological towers and associated facilities, provided that the towers and associated facilities would not be in a governmentally designated scenic area (see B(4)(iv) of this appendix) unless otherwise authorized by the appropriate governmental entity.

B1.20 Protection of Cultural Resources, Fish and Wildlife Habitat

Small-scale activities undertaken to protect cultural resources (such as fencing, labeling,

and flagging) or to protect, restore, or improve fish and wildlife habitat, fish passage facilities (such as fish ladders and minor diversion channels), or fisheries. Such activities would be conducted in accordance with an existing natural or cultural resource plan, if any.

B1.21 Noise Abatement

Noise abatement measures (including, but not limited to, construction of noise barriers and installation of noise control materials).

B1.22 Relocation of Buildings

Relocation of buildings (including, but not limited to, trailers and prefabricated buildings) to an already developed area (where active utilities and currently used roads are readily accessible).

B1.23 Demolition and Disposal of Buildings

Demolition and subsequent disposal of buildings, equipment, and support structures (including, but not limited to, smoke stacks and parking lot surfaces), provided that there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment.

B1.24 Property Transfers

Transfer, lease, disposition, or acquisition of interests in personal property (including, but not limited to, equipment and materials) or real property (including, but not limited to, permanent structures and land), provided that under reasonably foreseeable uses (1) there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment and (2) the covered actions would not have the potential to cause a significant change in impacts from before the transfer, lease, disposition, or acquisition of interests.

B1.25 Real Property Transfers for Cultural Resources Protection, Habitat Preservation, and Wildlife Management

Transfer, lease, disposition, or acquisition of interests in land and associated buildings for cultural resources protection, habitat preservation, or fish and wildlife management, provided that there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment.

B1.26 Small Water Treatment Facilities

Siting, construction, expansion, modification, replacement, operation, and decommissioning of small (total capacity less than approximately 250,000 gallons per day) wastewater and surface water treatment facilities whose liquid discharges are externally regulated, and small potable water and sewage treatment facilities.

B1.27 Disconnection of Utilities

Activities that are required for the disconnection of utility services (including, but not limited to, water, steam, telecommunications, and electrical power) after it has been determined that the

continued operation of these systems is not needed for safety.

B1.28 Placing a Facility in an Environmentally Safe Condition

Minor activities that are required to place a facility in an environmentally safe condition where there is no proposed use for the facility. These activities would include, but are not limited to, reducing surface contamination, and removing materials, equipment or waste (such as final defueling of a reactor, where there are adequate existing facilities for the treatment, storage, or disposal of the materials, equipment or waste). These activities would not include conditioning, treatment, or processing of spent nuclear fuel, high-level waste, or special nuclear materials.

B1.29 Disposal Facilities for Construction and Demolition Waste

Siting, construction, expansion, modification, operation, and decommissioning of small (less than approximately 10 acres) solid waste disposal facilities for construction and demolition waste, in accordance with applicable requirements (such as 40 CFR part 257, "Criteria for Classification of Solid Waste Disposal Facilities and Practices," and 40 CFR part 61, "National Emission Standards for Hazardous Air Pollutants") that would not release substances at a level, or in a form, that could pose a threat to public health or the environment.

B1.30 Transfer Actions

Transfer actions, in which the predominant activity is transportation, provided that (1) the receipt and storage capacity and management capability for the amount and type of materials, equipment, or waste to be moved already exists at the receiving site and (2) all necessary facilities and operations at the receiving site are already permitted, licensed, or approved, as appropriate. Such transfers are not regularly scheduled as part of ongoing routine operations.

B1.31 Installation or Relocation of Machinery and Equipment

Installation or relocation and operation of machinery and equipment (including, but not limited to, laboratory equipment, electronic hardware, manufacturing machinery, maintenance equipment, and health and safety equipment), provided that uses of the installed or relocated items are consistent with the general missions of the receiving structure. Covered actions include modifications to an existing building, within or contiguous to a previously disturbed or developed area, that are necessary for equipment installation and relocation. Such modifications would not appreciably increase the footprint or height of the existing building or have the potential to cause significant changes to the type and magnitude of environmental impacts.

B1.32 Traffic Flow Adjustments

Traffic flow adjustments to existing roads (including, but not limited to, stop sign or traffic light installation, adjusting direction of traffic flow, and adding turning lanes), and road adjustments (including, but not limited

to, widening and realignment) that are within an existing right-of-way and consistent with approved land use or transportation improvement plans.

B1.33 Stormwater Runoff Control

Design, construction, and operation of control practices to reduce stormwater runoff and maintain natural hydrology. Activities include, but are not limited to, those that reduce impervious surfaces (such as vegetative practices and use of porous pavements), best management practices (such as silt fences, straw wattles, and fiber rolls), and use of green infrastructure or other low impact development practices (such as cisterns and green roofs).

B1.34 Lead-Based Paint Containment, Removal, and Disposal

Containment, removal, and disposal of lead-based paint in accordance with applicable requirements (such as provisions relating to the certification of removal contractors and technicians at 40 CFR part 745, "Lead-Based Paint Poisoning Prevention In Certain Residential Structures").

B1.35 Drop-Off, Collection, and Transfer Facilities for Recyclable Materials

Siting, construction, modification, and operation of recycling or compostable material drop-off, collection, and transfer stations on or contiguous to a previously disturbed or developed area and in an area where such a facility would be consistent with existing zoning requirements. The stations would have appropriate facilities and procedures established in accordance with applicable requirements for the handling of recyclable or compostable materials and household hazardous waste (such as paint and pesticides). Except as specified above, the collection of hazardous waste for disposal and the processing of recyclable or compostable materials are not included in this class of actions.

B1.36 Determinations of Excess Real Property

Determinations that real property is excess to the needs of DOE and, in the case of acquired real property, the subsequent reporting of such determinations to the General Services Administration or, in the case of lands withdrawn or otherwise reserved from the public domain, the subsequent filing of a notice of intent to relinquish with the Bureau of Land Management, Department of the Interior. Covered actions would not include disposal of real property.

B2. Categorical Exclusions Applicable to Safety and Health

B2.1 Workplace Enhancements

Modifications within or contiguous to an existing structure, in a previously disturbed or developed area, to enhance workplace habitability (including, but not limited to, installation or improvements to lighting, radiation shielding, or heating/ventilating/air conditioning and its instrumentation, and noise reduction).

B2.2 Building and Equipment Instrumentation

Installation of, or improvements to, building and equipment instrumentation (including, but not limited to, remote control panels, remote monitoring capability, alarm and surveillance systems, control systems to provide automatic shutdown, fire detection and protection systems, water consumption monitors and flow control systems, announcement and emergency warning systems, criticality and radiation monitors and alarms, and safeguards and security equipment).

B2.3 Personnel Safety and Health Equipment

Installation of, or improvements to, equipment for personnel safety and health (including, but not limited to, eye washes, safety showers, radiation monitoring devices, fumehoods, and associated collection and exhaust systems), provided that the covered actions would not have the potential to cause a significant increase in emissions.

B2.4 Equipment Qualification

Activities undertaken to (1) qualify equipment for use or improve systems reliability or (2) augment information on safety-related system components. These activities include, but are not limited to, transportation container qualification testing, crane and lift-gear certification or recertification testing, high efficiency particulate air filter testing and certification, stress tests (such as "burn-in" testing of electrical components and leak testing), and calibration of sensors or diagnostic equipment.

B2.5 Facility Safety and Environmental Improvements

Safety and environmental improvements of a facility (including, but not limited to, replacement and upgrade of facility components) that do not result in a significant change in the expected useful life, design capacity, or function of the facility and during which operations may be suspended and then resumed. Improvements include, but are not limited to, replacement/upgrade of control valves, in-core monitoring devices, facility air filtration systems, or substation transformers or capacitors; addition of structural bracing to meet earthquake standards and/or sustain high wind loading; and replacement of aboveground or belowground tanks and related piping, provided that there is no evidence of leakage, based on testing in accordance with applicable requirements (such as 40 CFR part 265, "Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities" and 40 CFR part 280, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks"). These actions do not include rebuilding or modifying substantial portions of a facility (such as replacing a reactor vessel).

B2.6 Recovery of Radioactive Sealed Sources

Recovery of radioactive sealed sources and sealed source-containing devices from

domestic or foreign locations provided that (1) the recovered items are transported and stored in compliant containers, and (2) the receiving site has sufficient existing storage capacity and all required licenses, permits, and approvals.

B3. Categorical Exclusions Applicable to Site Characterization, Monitoring, and General Research

B3.1 Site Characterization and Environmental Monitoring

Site characterization and environmental monitoring (including, but not limited to, siting, construction, modification, operation, and dismantlement and removal or otherwise proper closure (such as of a well) of characterization and monitoring devices, and siting, construction, and associated operation of a small-scale laboratory building or renovation of a room in an existing building for sample analysis). Such activities would be designed in conformance with applicable requirements and use best management practices to limit the potential effects of any resultant ground disturbance. Covered activities include, but are not limited to, site characterization and environmental monitoring under CERCLA and RCRA. (This class of actions excludes activities in aquatic environments. See B3.16 of this appendix for such activities.) Specific activities include, but are not limited to:

(a) Geological, geophysical (such as gravity, magnetic, electrical, seismic, radar, and temperature gradient), geochemical, and engineering surveys and mapping, and the establishment of survey marks. Seismic techniques would not include large-scale reflection or refraction testing;

(b) Installation and operation of field instruments (such as stream-gauging stations or flow-measuring devices, telemetry systems, geochemical monitoring tools, and geophysical exploration tools);

(c) Drilling of wells for sampling or monitoring of groundwater or the vadose (unsaturated) zone, well logging, and installation of water-level recording devices in wells;

(d) Aquifer and underground reservoir response testing;

(e) Installation and operation of ambient air monitoring equipment;

(f) Sampling and characterization of water, soil, rock, or contaminants (such as drilling using truck- or mobile- scale equipment, and modification, use, and plugging of boreholes);

(g) Sampling and characterization of water effluents, air emissions, or solid waste streams;

(h) Installation and operation of meteorological towers and associated activities (such as assessment of potential wind energy resources);

(i) Sampling of flora or fauna; and

(j) Archeological, historic, and cultural resource identification in compliance with 36 CFR part 800 and 43 CFR part 7.

B3.2 Aviation Activities

Aviation activities for survey, monitoring, or security purposes that comply with Federal Aviation Administration regulations.

B3.3 Research Related to Conservation of Fish, Wildlife, and Cultural Resources

Field and laboratory research, inventory, and information collection activities that are directly related to the conservation of fish and wildlife resources or to the protection of cultural resources, provided that such activities would not have the potential to cause significant impacts on fish and wildlife habitat or populations or to cultural resources.

B3.4 Transport Packaging Tests for Radioactive or Hazardous Material

Drop, puncture, water-immersion, thermal, and fire tests of transport packaging for radioactive or hazardous materials to certify that designs meet the applicable requirements (such as 49 CFR 173.411 and 173.412 and 10 CFR 71.73).

B3.5 Tank Car Tests

Tank car tests under 49 CFR part 179 (including, but not limited to, tests of safety relief devices, pressure regulators, and thermal protection systems).

B3.6 Small-Scale Research and Development, Laboratory Operations, and Pilot Projects

Siting, construction, modification, operation, and decommissioning of facilities for small-scale research and development projects; conventional laboratory operations (such as preparation of chemical standards and sample analysis); and small-scale pilot projects (generally less than 2 years) frequently conducted to verify a concept before demonstration actions, provided that construction or modification would be within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Not included in this category are demonstration actions, meaning actions that are undertaken at a scale to show whether a technology would be viable on a larger scale and suitable for commercial deployment.

B3.7 New Terrestrial Infill Exploratory and Experimental Wells

Siting, construction, and operation of new terrestrial infill exploratory and experimental (test) wells, for either extraction or injection use, in a locally characterized geological formation in a field that contains existing operating wells, properly abandoned wells, or unminable coal seams containing natural gas, provided that the site characterization has verified a low potential for seismicity, subsidence, and contamination of freshwater aquifers, and the actions are otherwise consistent with applicable best practices and DOE protocols, including those that protect against uncontrolled releases of harmful materials. Such wells may include those for brine, carbon dioxide, coalbed methane, gas hydrate, geothermal, natural gas, and oil. Uses for carbon sequestration wells include, but are not limited to, the study of saline formations, enhanced oil recovery, and enhanced coalbed methane extraction.

B3.8 Outdoor Terrestrial Ecological and Environmental Research

Outdoor terrestrial ecological and environmental research in a small area

(generally less than 5 acres), including, but not limited to, siting, construction, and operation of a small-scale laboratory building or renovation of a room in an existing building for associated analysis. Such activities would be designed in conformance with applicable requirements and use best management practices to limit the potential effects of any resultant ground disturbance.

B3.9 Projects To Reduce Emissions and Waste Generation

Projects to reduce emissions and waste generation at existing fossil or alternative fuel combustion or utilization facilities, provided that these projects would not have the potential to cause a significant increase in the quantity or rate of air emissions. For this category of actions, "fuel" includes, but is not limited to, coal, oil, natural gas, hydrogen, syngas, and biomass; but "fuel" does not include nuclear fuel. Covered actions include, but are not limited to:

(a) Test treatment of the throughput product (solid, liquid, or gas) generated at an existing and fully operational fuel combustion or utilization facility;

(b) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that requires only minor modification to the existing structures at an existing fuel combustion or utilization facility, for which the existing use remains essentially unchanged;

(c) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that involves no permanent change in the quantity or quality of fuel burned or used and involves no permanent change in the capacity factor of the fuel combustion or utilization facility; and

(d) Addition or modification of equipment for capture and control of carbon dioxide or other regulated substances, provided that adequate infrastructure is in place to manage such substances.

B3.10 Particle Accelerators

Siting, construction, modification, operation, and decommissioning of particle accelerators, including electron beam accelerators, with primary beam energy less than approximately 100 million electron volts (MeV) and average beam power less than approximately 250 kilowatts (kW), and associated beamlines, storage rings, colliders, and detectors, for research and medical purposes (such as proton therapy), and isotope production, within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible), or internal modification of any accelerator facility regardless of energy, that does not increase primary beam energy or current. In cases where the beam energy exceeds 100 MeV, the average beam power must be less than 250 kW, so as not to exceed an average current of 2.5 milliamperes (mA).

B3.11 Outdoor Tests and Experiments on Materials and Equipment Components

Outdoor tests and experiments for the development, quality assurance, or reliability of materials and equipment (including, but

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

B3.12 Microbiological and Biomedical Facilities

Siting, construction, modification, operation, and decommissioning of microbiological and biomedical diagnostic, treatment and research facilities (excluding Biosafety Level-3 and Biosafety Level-4), in accordance with applicable requirements and best practices (such as Biosafety in Microbiological and Biomedical Laboratories, 5th Edition, Dec. 2009, U.S. Department of Health and Human Services) including, but not limited to, laboratories, treatment areas, offices, and storage areas, within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Operation may include the purchase, installation, and operation of biomedical equipment (such as commercially available cyclotrons that are used to generate radioisotopes and radiopharmaceuticals, and commercially available biomedical imaging and spectroscopy instrumentation).

B3.13 Magnetic Fusion Experiments

Performing magnetic fusion experiments that do not use tritium as fuel, within existing facilities (including, but not limited to, necessary modifications).

B3.14 Small-Scale Educational Facilities

Siting, construction, modification, operation, and decommissioning of small-scale educational facilities (including, but not limited to, conventional teaching laboratories, libraries, classroom facilities, auditoriums, museums, visitor centers, exhibits, and associated offices) within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Operation may include, but is not limited to, purchase, installation, and operation of equipment (such as audio/visual and laboratory equipment) commensurate with the educational purpose of the facility.

B3.15 Small-Scale Indoor Research and Development Projects Using Nanoscale Materials

Siting, construction, modification, operation, and decommissioning of facilities for indoor small-scale research and development projects and small-scale pilot projects using nanoscale materials in accordance with applicable requirements (such as engineering, worker safety,

procedural, and administrative regulations) necessary to ensure the containment of any hazardous materials. Construction and modification activities would be within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible).

B3.16 Research activities in aquatic environments

Small-scale, temporary surveying, site characterization, and research activities in aquatic environments, limited to:

(a) Acquisition of rights-of-way, easements, and temporary use permits;

(b) Installation, operation, and removal of passive scientific measurement devices, including, but not limited to, antennae, tide gauges, flow testing equipment for existing wells, weighted hydrophones, salinity measurement devices, and water quality measurement devices;

(c) Natural resource inventories, data and sample collection, environmental monitoring, and basic and applied research, excluding

(1) large-scale vibratory coring techniques and

(2) seismic activities other than passive techniques; and

(d) Surveying and mapping.

These activities would be conducted in accordance with, where applicable, an approved spill prevention, control, and response plan and would incorporate appropriate control technologies and best management practices. None of the activities listed above would occur within the boundary of an established marine sanctuary or wildlife refuge, a governmentally proposed marine sanctuary or wildlife refuge, or a governmentally recognized area of high biological sensitivity, unless authorized by the agency responsible for such refuge, sanctuary, or area (or after consultation with the responsible agency, if no authorization is required). If the proposed activities would occur outside such refuge, sanctuary, or area and if the activities would have the potential to cause impacts within such refuge, sanctuary, or area, then the responsible agency shall be consulted in order to determine whether authorization is required and whether such activities would have the potential to cause significant impacts on such refuge, sanctuary, or area. Areas of high biological sensitivity include, but are not limited to, areas of known ecological importance, whale and marine mammal mating and calving/pupping areas, and fish and invertebrate spawning and nursery areas recognized as being limited or unique and vulnerable to perturbation; these areas can occur in bays, estuaries, near shore, and far offshore, and may vary seasonally. No permanent facilities or devices would be constructed or installed. Covered actions do not include drilling of resource exploration or extraction wells.

B4. Categorical Exclusions Applicable to Electrical Power and Transmission

B4.1 Contracts, Policies, and Marketing and Allocation Plans for Electric Power

Establishment and implementation of contracts, policies, and marketing and allocation plans related to electric power

acquisition that involve only the use of the existing transmission system and existing generation resources operating within their normal operating limits.

B4.2 Export of Electric Energy

Export of electric energy as provided by Section 202(e) of the Federal Power Act over existing transmission systems or using transmission system changes that are themselves categorically excluded.

B4.3 Electric Power Marketing Rate Changes

Rate changes for electric power, power transmission, and other products or services provided by a Power Marketing Administration that are based on a change in revenue requirements if the operations of generation projects would remain within normal operating limits.

B4.4 Power Marketing Services and Activities

Power marketing services and power management activities (including, but not limited to, storage, load shaping and balancing, seasonal exchanges, and other similar activities), provided that the operations of generating projects would remain within normal operating limits. (See B4.14 of this appendix for energy storage systems.)

B4.5 Temporary Adjustments to River Operations

Temporary adjustments to river operations to accommodate day-to-day river fluctuations, power demand changes, fish and wildlife conservation program requirements, and other external events, provided that the adjustments would occur within the existing operating constraints of the particular hydrosystem operation.

B4.6 Additions and Modifications to Transmission Facilities

Additions or modifications to electric power transmission facilities within a previously disturbed or developed facility area. Covered activities include, but are not limited to, switchyard rock grounding upgrades, secondary containment projects, paving projects, seismic upgrading, tower modifications, load shaping projects (such as reducing energy use during periods of peak demand), changing insulators, and replacement of poles, circuit breakers, conductors, transformers, and crossarms. (See B4.14 of this appendix for energy storage systems.)

B4.7 Fiber Optic Cable

Adding fiber optic cables to transmission facilities or burying fiber optic cable in existing powerline or pipeline rights-of-way. Covered actions may include associated vaults and pulling and tensioning sites outside of rights-of-way in nearby previously disturbed or developed areas.

B4.8 Electricity Transmission Agreements

New electricity transmission agreements, and modifications to existing transmission arrangements, to use a transmission facility of one system to transfer power of and for another system, provided that no new

generation projects would be involved and no physical changes in the transmission system would be made beyond the previously disturbed or developed facility area.

B4.9 Multiple Use of Powerline Rights-of-Way

Granting or denying requests for multiple uses of a transmission facility's rights-of-way (including, but not limited to, grazing permits and crossing agreements for electric lines, water lines, natural gas pipelines, communications cables, roads, and drainage culverts).

B4.10 Removal of Electric Transmission Facilities

Deactivation, dismantling, and removal of electric transmission facilities (including, but not limited to, electric powerlines, substations, and switching stations) and abandonment and restoration of rights-of-way (including, but not limited to, associated access roads).

B4.11 Electric Power Substations and Interconnection Facilities

Construction or modification of electric power substations or interconnection facilities (including, but not limited to, switching stations and support facilities).

B4.12 Construction of Powerlines

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

B4.13 Upgrading and Rebuilding Existing Powerlines

Upgrading or rebuilding existing electric powerlines, which may involve relocations of small segments of the powerlines within an existing powerline right-of-way or within otherwise previously disturbed or developed lands (as discussed at section 5.4(b)(1)). Upgrading or rebuilding existing electric powerlines also may involve widening an existing powerline right-of-way to meet current electrical standards if the widening remains within previously disturbed or developed lands and only extends into a small area beyond such lands as needed to comply with applicable electrical standards. Covered actions would be in accordance with applicable requirements, including the integral elements listed at the start of this appendix; and would incorporate appropriate design and construction standards, control technologies, and best management practices. This categorical exclusion does not apply to underwater powerlines. As used in this categorical exclusion, "small" has the meaning discussed at section 5.4(b)(2)).

B4.14 Construction and Operation of Electrochemical-Battery or Flywheel Energy Storage Systems

Construction, operation, upgrade, or decommissioning of an electrochemical-battery or flywheel energy storage system within a previously disturbed or developed area or within a small (as discussed at section 5.4(b)(2)) area contiguous to a previously disturbed or developed area. Covered actions

would be in accordance with applicable requirements (such as land use and zoning requirements) in the proposed project area and the integral elements listed at the start of this appendix, and would incorporate appropriate safety standards (including the current National Fire Protection Association 855, Standard for the Installation of Stationary Energy Storage Systems), design and construction standards, control technologies, and best management practices.

B5. Categorical Exclusions Applicable to Conservation, Fossil, and Renewable Energy Activities

B5.1 Actions To Conserve Energy or Water

(a) Actions to conserve energy or water, demonstrate potential energy or water conservation, and promote energy efficiency that would not have the potential to cause significant changes in the indoor or outdoor concentrations of potentially harmful substances. These actions may involve financial and technical assistance to individuals (such as builders, owners, consultants, manufacturers, and designers), organizations (such as utilities), and governments (such as state, local, and tribal). Covered actions include, but are not limited to weatherization (such as insulation and replacing windows and doors); programmed lowering of thermostat settings; placement of timers on hot water heaters; installation or replacement of energy efficient lighting, low-flow plumbing fixtures (such as faucets, toilets, and showerheads), heating, ventilation, and air conditioning systems, and appliances; installation of drip-irrigation systems; improvements in generator efficiency and appliance efficiency ratings; efficiency improvements for vehicles and transportation (such as fleet changeout); transportation management systems (such as traffic signal control systems, car navigation, speed cameras, and automatic plate number recognition); development of energy-efficient manufacturing, industrial, or building practices; and small-scale energy efficiency and conservation research and development and small-scale pilot projects. Covered actions include building renovations or new structures, provided that they occur in a previously disturbed or developed area. Covered actions could involve commercial, residential, agricultural, academic, institutional, or industrial sectors. Covered actions do not include rulemakings, standard-settings, or proposed DOE legislation, except for those actions listed in B5.1(b) of this appendix.

(b) Covered actions include rulemakings that establish energy conservation standards for consumer products and industrial equipment, provided that the actions would not:

- (1) Have the potential to cause a significant change in manufacturing infrastructure (such as construction of new manufacturing plants with considerable associated ground disturbance);
- (2) Involve significant unresolved conflicts concerning alternative uses of available resources (such as rare or limited raw materials);
- (3) Have the potential to result in a significant increase in the disposal of

materials posing significant risks to human health and the environment (such as RCRA hazardous wastes); or

(4) Have the potential to cause a significant increase in energy consumption in a state or region.

B5.2 Modifications to Pumps and Piping

Modifications to existing pump and piping configurations (including, but not limited to, manifolds, metering systems, and other instrumentation on such configurations conveying materials such as air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water). Covered modifications would not have the potential to cause significant changes to design process flow rates or permitted air emissions.

B5.3 Modification or Abandonment of Wells

Modification (but not expansion) or plugging and abandonment of wells, provided that site characterization has verified a low potential for seismicity, subsidence, and contamination of freshwater aquifers, and the actions are otherwise consistent with best practices and DOE protocols, including those that protect against uncontrolled releases of harmful materials. Such wells may include, but are not limited to, storage and injection wells for brine, carbon dioxide, coalbed methane, gas hydrate, geothermal, natural gas, and oil. Covered modifications would not be part of site closure.

B5.4 Repair or Replacement of Pipelines

Repair, replacement, upgrading, rebuilding, or minor relocation of pipelines within existing rights-of-way, provided that the actions are in accordance with applicable requirements (such as Army Corps of Engineers permits under section 404 of the Clean Water Act). Pipelines may convey materials including, but not limited to, air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water.

B5.5 Short Pipeline Segments

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

B5.6 Oil Spill Cleanup

Removal of oil and contaminated materials recovered in oil spill cleanup operations and disposal of these materials in accordance with applicable requirements (such as the National Oil and Hazardous Substances Pollution Contingency Plan).

B5.7 Export of Natural Gas and Associated Transportation by Marine Vessel

Approvals or disapprovals of new authorizations or amendments of existing authorizations to export natural gas under

section 3 of the Natural Gas Act and any associated transportation of natural gas by marine vessel.

B5.8 [Reserved]

B5.9 Temporary Exemptions for Electric Powerplants

Grants or denials of temporary exemptions under the Powerplant and Industrial Fuel Use Act of 1978, as amended, for electric powerplants.

B5.10 Certain Permanent Exemptions for Existing Electric Powerplants

For existing electric powerplants, grants or denials of permanent exemptions under the Powerplant and Industrial Fuel Use Act of 1978, as amended, other than exemptions under section 312(c) relating to cogeneration and section 312(b) relating to certain state or local requirements.

B5.11 Permanent Exemptions Allowing Mixed Natural Gas and Petroleum

For new electric powerplants, grants or denials of permanent exemptions from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, to permit the use of certain fuel mixtures containing natural gas or petroleum.

B5.12 Workover of Existing Wells

Workover (operations to restore production, such as deepening, plugging back, pulling and resetting lines, and squeeze cementing) of existing wells (including, but not limited to, activities associated with brine, carbon dioxide, coalbed methane, gas hydrate, geothermal, natural gas, and oil) to restore functionality, provided that workover operations are restricted to the existing wellpad and do not involve any new site preparation or earthwork that would have the potential to cause significant impacts on nearby habitat; that site characterization has verified a low potential for seismicity, subsidence, and contamination of freshwater aquifers; and the actions are otherwise consistent with best practices and DOE protocols, including those that protect against uncontrolled releases of harmful materials.

B5.13 Experimental Wells for Injection of Small Quantities of Carbon Dioxide

Siting, construction, operation, plugging, and abandonment of experimental wells for the injection of small quantities of carbon dioxide (and other incidentally co-captured gases) in locally characterized, geologically secure storage formations at or near existing carbon dioxide sources to determine the suitability of the formations for large-scale sequestration, provided that (1) The characterization has verified a low potential for seismicity, subsidence, and contamination of freshwater aquifers; (2) the wells are otherwise in accordance with applicable requirements, best practices, and DOE protocols, including those that protect against uncontrolled releases of harmful materials; and (3) the wells and associated drilling activities are sufficiently remote so that they would not have the potential to cause significant impacts related to noise and other vibrations. Wells may be used for

enhanced oil or natural gas recovery or for secure storage of carbon dioxide in saline formations or other secure formations. Over the duration of a project, the wells would be used to inject, in aggregate, less than 500,000 tons of carbon dioxide into the geologic formation. Covered actions exclude activities in aquatic environments. (See B3.16 of this appendix for activities in aquatic environments.)

B5.14 Combined Heat and Power or Cogeneration Systems

Conversion to, replacement of, or modification of combined heat and power or cogeneration systems (the sequential or simultaneous production of multiple forms of energy, such as thermal and electrical energy, in a single integrated system) at existing facilities, provided that the conversion, replacement, or modification would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources.

B5.15 Small-Scale Renewable Energy Research and Development and Pilot Projects

Small-scale renewable energy research and development projects and small-scale pilot projects, provided that the projects are located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.16 Solar Photovoltaic Systems

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

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

(2) Located within a previously disturbed or developed area.

(b) Covered actions would be in accordance with applicable requirements (such as land use and zoning requirements) in the proposed project area and the integral elements listed at the start of this appendix, and would be consistent with applicable plans for the management of wildlife and habitat, including plans to maintain habitat connectivity, and incorporate appropriate control technologies and best management practices.

B5.17 Solar Thermal Systems

The installation, modification, operation, and removal of commercially available small-scale solar thermal systems (including, but not limited to, solar hot water systems) located on or contiguous to a building, and if located on land, generally comprising less than 10 acres within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.18 Wind Turbines

The installation, modification, operation, and removal of a small number (generally not more than 2) of commercially available wind turbines, with a total height generally less than 200 feet (measured from the ground to the maximum height of blade rotation) that (1) Are located within a previously disturbed or developed area; (2) are located more than 10 nautical miles (about 11.5 miles) from an airport or aviation navigation aid; (3) are located more than 1.5 nautical miles (about 1.7 miles) from National Weather Service or Federal Aviation Administration Doppler weather radar; (4) would not have the potential to cause significant impacts on bird or bat populations; and (5) are sited or designed such that the project would not have the potential to cause significant impacts to persons (such as from shadow flicker and other visual effects, and noise). Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices. Covered actions include only those related to wind turbines to be installed on land.

B5.19 Ground Source Heat Pumps

The installation, modification, operation, and removal of commercially available small-scale ground source heat pumps to support operations in single facilities (such as a school or community center) or contiguous facilities (such as an office complex) (1) Only where (a) major associated activities (such as drilling and discharge) are regulated, and (b) appropriate leakage and contaminant control measures would be in place (including for cross-contamination between aquifers); (2) that would not have the potential to cause significant changes in subsurface temperature; and (3) would be located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.20 Biomass Power Plants

The installation, modification, operation, and removal of small-scale biomass power plants (generally less than 10 megawatts), using commercially available technology (1) Intended primarily to support operations in single facilities (such as a school and community center) or contiguous facilities (such as an office complex); (2) that would not affect the air quality attainment status of the area and would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources; and (3) would be located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.21 Methane Gas Recovery and Utilization Systems

The installation, modification, operation, and removal of commercially available methane gas recovery and utilization systems installed within a previously disturbed or developed area on or contiguous to an existing landfill or wastewater treatment plant that would not have the potential to cause a significant increase in the quantity or rate of air emissions. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.22 Alternative Fuel Vehicle Fueling Stations

The installation, modification, operation, and removal of alternative fuel vehicle fueling stations (such as for compressed natural gas, hydrogen, ethanol and other commercially available biofuels) on the site of a current or former fueling station, or within a previously disturbed or developed area within the boundaries of a facility managed by the owners of a vehicle fleet. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.23 Electric Vehicle Charging Stations

The installation, modification, operation, and removal of electric vehicle charging stations, using commercially available technology, within a previously disturbed or developed area. Covered actions are limited to areas where access and parking are in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

B5.24 Drop-In Hydroelectric Systems

The installation, modification, operation, and removal of commercially available small-scale, drop-in, run-of-the-river hydroelectric systems that would (1) Involve no water storage or water diversion from the stream or river channel where the system is installed and (2) not have the potential to cause significant impacts on water quality, temperature, flow, or volume. Covered systems would be located up-gradient of an existing anadromous fish barrier that is not planned for removal and where fish passage retrofit is not planned and where there would not be the potential for significant impacts to threatened or endangered species or other species of concern (as identified in B(4)(ii) of this appendix). Covered actions would involve no major construction or modification of stream or river channels, and the hydroelectric systems would be placed and secured in the channel without the use of heavy equipment. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate

control technologies and best management practices.

B5.25 Small-Scale Renewable Energy Research and Development and Pilot Projects in Aquatic Environments

Small-scale renewable energy research and development projects and small-scale pilot projects located in aquatic environments. Activities would be in accordance with, where applicable, an approved spill prevention, control, and response plan, and would incorporate appropriate control technologies and best management practices. Covered actions would not occur (1) Within areas of hazardous natural bottom conditions or (2) within the boundary of an established marine sanctuary or wildlife refuge, a governmentally proposed marine sanctuary or wildlife refuge, or a governmentally recognized area of high biological sensitivity, unless authorized by the agency responsible for such refuge, sanctuary, or area (or after consultation with the responsible agency, if no authorization is required). If the proposed activities would occur outside such refuge, sanctuary, or area and if the activities would have the potential to cause impacts within such refuge, sanctuary, or area, then the responsible agency shall be consulted in order to determine whether authorization is required and whether such activities would have the potential to cause significant impacts on such refuge, sanctuary, or area. Areas of high biological sensitivity include, but are not limited to, areas of known ecological importance, whale and marine mammal mating and calving/pupping areas, and fish and invertebrate spawning and nursery areas recognized as being limited or unique and vulnerable to perturbation; these areas can occur in bays, estuaries, near shore, and far offshore, and may vary seasonally. No permanent facilities or devices would be constructed or installed. Covered actions do not include drilling of resource exploration or extraction wells, use of large-scale vibratory coring techniques, or seismic activities other than passive techniques.

B6. Categorical Exclusions Applicable to Environmental Restoration and Waste Management Activities**B6.1 Cleanup Actions**

Small-scale, short-term cleanup actions, under RCRA, Atomic Energy Act, or other authorities, less than approximately 10 million dollars in cost (in 2011 dollars), to reduce risk to human health or the environment from the release or threat of release of a hazardous substance other than high-level radioactive waste and spent nuclear fuel, including treatment (such as incineration, encapsulation, physical or chemical separation, and compaction), recovery, storage, or disposal of wastes at existing facilities currently handling the type of waste involved in the action. These actions include, but are not limited to:

(a) Excavation or consolidation of contaminated soils or materials from drainage channels, retention basins, ponds, and spill areas that are not receiving contaminated surface water or wastewater, if surface water or groundwater would not collect and if such actions would reduce the

spread of, or direct contact with, the contamination;

(b) Removal of bulk containers (such as drums and barrels) that contain or may contain hazardous substances, pollutants, contaminants, CERCLA-excluded petroleum or natural gas products, or hazardous wastes (designated in 40 CFR part 261 or applicable state requirements), if such actions would reduce the likelihood of spillage, leakage, fire, explosion, or exposure to humans, animals, or the food chain;

(c) Removal of an underground storage tank including its associated piping and underlying containment systems in accordance with applicable requirements (such as RCRA, subtitle I; 40 CFR part 265, subpart J; and 40 CFR part 280, subparts F and G) if such action would reduce the likelihood of spillage, leakage, or the spread of, or direct contact with, contamination;

(d) Repair or replacement of leaking containers;

(e) Capping or other containment of contaminated soils or sludges if the capping or containment would not unduly limit future groundwater remediation and if needed to reduce migration of hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products into soil, groundwater, surface water, or air;

(f) Drainage or closing of man-made surface impoundments if needed to maintain the integrity of the structures;

(g) Confinement or perimeter protection using dikes, trenches, ditches, or diversions, or installing underground barriers, if needed to reduce the spread of, or direct contact with, the contamination;

(h) Stabilization, but not expansion, of berms, dikes, impoundments, or caps if needed to maintain integrity of the structures;

(i) Drainage controls (such as run-off or run-on diversion) if needed to reduce offsite migration of hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum or natural gas products or to prevent precipitation or run-off from other sources from entering the release area from other areas;

(j) Segregation of wastes that may react with one another or form a mixture that could result in adverse environmental impacts;

(k) Use of chemicals and other materials to neutralize the pH of wastes;

(l) Use of chemicals and other materials to retard the spread of the release or to mitigate its effects if the use of such chemicals would reduce the spread of, or direct contact with, the contamination;

(m) Installation and operation of gas ventilation systems in soil to remove methane or petroleum vapors without any toxic or radioactive co-contaminants if appropriate filtration or gas treatment is in place;

(n) Installation of fences, warning signs, or other security or site control precautions if humans or animals have access to the release; and

(o) Provision of an alternative water supply that would not create new water sources if necessary immediately to reduce exposure to

contaminated household or industrial use water and continuing until such time as local authorities can satisfy the need for a permanent remedy.

B6.2 Waste Collection, Treatment, Stabilization, and Containment Facilities

The siting, construction, and operation of temporary (generally less than 2 years) pilot-scale waste collection and treatment facilities, and pilot-scale (generally less than 1 acre) waste stabilization and containment facilities (including siting, construction, and operation of a small-scale laboratory building or renovation of a room in an existing building for sample analysis), provided that the action (1) Supports remedial investigations/feasibility studies under CERCLA, or similar studies under RCRA (such as RCRA facility investigations/corrective measure studies) or other authorities and (2) would not unduly limit the choice of reasonable remedial alternatives (such as by permanently altering substantial site area or by committing large amounts of funds relative to the scope of the remedial alternatives).

B6.3 Improvements to Environmental Control Systems

Improvements to environmental monitoring and control systems of an existing building or structure (such as changes to scrubbers in air quality control systems or ion-exchange devices and other filtration processes in water treatment systems), provided that during subsequent operations (1) Any substance collected by the environmental control systems would be recycled, released, or disposed of within existing permitted facilities and (2) there are applicable statutory or regulatory requirements or permit conditions for disposal, release, or recycling of any hazardous substance or CERCLA-excluded petroleum or natural gas products that are collected or released in increased quantity or that were not previously collected or released.

B6.4 Facilities for Storing Packaged Hazardous Waste for 90 Days or Less

Siting, construction, modification, expansion, operation, and decommissioning of an onsite facility for storing packaged hazardous waste (as designated in 40 CFR part 261) for 90 days or less or for longer periods as provided in 40 CFR 262.34(d), (e), or (f) (such as accumulation or satellite areas).

B6.5 Facilities for Characterizing and Sorting Packaged Waste and Overpacking Waste

Siting, construction, modification, expansion, operation, and decommissioning of an onsite facility for characterizing and sorting previously packaged waste or for overpacking waste, other than high-level radioactive waste, provided that operations do not involve unpacking waste. These actions do not include waste storage (covered under B6.4, B6.6, B6.10 of this appendix) or the handling of spent nuclear fuel.

B6.6 Modification of Facilities for Storing, Packaging, and Repacking Waste

Modification (excluding increases in capacity) of an existing structure used for storing, packaging, or repacking waste other than high-level radioactive waste or spent nuclear fuel, to handle the same class of waste as currently handled at that structure.

B6.7 [Reserved]

B6.8 Modifications for Waste Minimization and Reuse of Materials

Minor operational changes at an existing facility to minimize waste generation and for reuse of materials. These changes include, but are not limited to, adding filtration and recycle piping to allow reuse of machining oil, setting up a sorting area to improve process efficiency, and segregating two waste streams previously mingled and assigning new identification codes to the two resulting wastes.

B6.9 Measures To Reduce Migration of Contaminated Groundwater

Small-scale temporary measures to reduce migration of contaminated groundwater, including the siting, construction, operation, and decommissioning of necessary facilities. These measures include, but are not limited to, pumping, treating, storing, and reinjecting water, by mobile units or facilities that are built and then removed at the end of the action.

B6.10 Upgraded or Replacement Waste Storage Facilities

Siting, construction, modification, expansion, operation, and decommissioning of a small upgraded or replacement facility (less than approximately 50,000 square feet in area) within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible) for storage of waste that is already at the site at the time the storage capacity is to be provided. These actions do not include the storage of high-level radioactive waste, spent nuclear fuel or any waste that requires special precautions to prevent nuclear criticality. (See also B6.4, B6.5, B6.6 of this appendix.)

B7. Categorical Exclusions Applicable to International Activities

B7.1 Emergency Measures Under the International Energy Program

Planning and implementation of emergency measures pursuant to the International Energy Program.

B7.2 Import and Export of Special Nuclear or Isotopic Materials

Approval of import or export of small quantities of special nuclear materials or isotopic materials in accordance with applicable requirements (such as the Nuclear Non-Proliferation Act of 1978 and the "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978" (43 FR 25326, June 9, 1978)).

Appendix C: Categorical Exclusions Adopted Pursuant to NEPA Section 109

DOE has adopted the categorical exclusions listed below from other Federal

agencies pursuant to section 109 of NEPA (42 U.S.C. 4336(c)). These categorical exclusions are available for use by all DOE offices pursuant to procedures contained in section 5.2. DOE's notice of adoption, cited below, may contain additional information relevant to the adoption and use of particular categorical exclusions.

U.S. Forest Service (USFS) Categorical Exclusions

USFS (e)(11): Post-fire rehabilitation activities, not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds), to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire. Such activities:

(i) Shall be conducted consistent with Agency and Departmental procedures and applicable land and resource management plans;

(ii) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and

(iii) Shall be completed within 3 years following a wildland fire.

DOE announced adoption of this categorical exclusion on July 23, 2024 (89 FR 59726).

USFS (e)(12): Harvest of live trees not to exceed 70 acres, requiring no more than 2 mile of temporary road construction. Do not use this category for even-aged regeneration harvest or vegetation type conversion. The proposed action may include incidental removal of trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Removal of individual trees for sawlogs, specialty products, or fuelwood, and

(ii) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.

DOE announced adoption of this categorical exclusion on July 23, 2024 (89 FR 59726).

USFS (e)(13): Salvage of dead and/or dying trees not to exceed 250 acres, requiring no more than 1/2 mile of temporary road construction. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Harvest of a portion of a stand damaged by a wind or ice event and construction of a short temporary road to access the damaged trees, and

(ii) Harvest of fire-damaged trees.

DOE announced adoption of this categorical exclusion on July 23, 2024 (89 FR 59726).

USFS (e)(14): Commercial and noncommercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than 2 mile of temporary road construction, including removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of

insects or disease. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Felling and harvest of trees infested with southern pine beetles and immediately adjacent uninfested trees to control expanding spot infestations, and

(ii) Removal and/or destruction of infested trees affected by a new exotic insect or disease, such as emerald ash borer, Asian long horned beetle, and sudden oak death pathogen.

DOE announced adoption of this categorical exclusion on July 23, 2024 (89 FR 59726).

USFS (e)(18): Restoring wetlands, streams, riparian areas or other water bodies by removing, replacing, or modifying water control structures such as, but not limited to, dams, levees, dikes, ditches, culverts, pipes, drainage tiles, valves, gates, and fencing, to allow waters to flow into natural channels and floodplains and restore natural flow regimes to the extent practicable where valid existing rights or special use authorizations are not unilaterally altered or canceled. Examples include but are not limited to:

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

(ii) Installing a newly-designed structure that replaces an existing culvert to improve aquatic organism passage and prevent resource and property damage where the road or trail maintenance level does not change;

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

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

DOE announced adoption of this categorical exclusion on July 23, 2024 (89 FR 59726).

USFS (e)(19): Removing and/or relocating debris and sediment following disturbance events (such as floods, hurricanes, tornados, mechanical/engineering failures, etc.) to restore uplands, wetlands, or riparian systems to pre-disturbance conditions, to the extent practicable, such that site conditions will not impede or negatively alter natural processes. Examples include but are not limited to:

(i) Removing an unstable debris jam on a river following a flood event and relocating it back in the floodplain and stream channel to restore water flow and local bank stability;

(ii) Clean-up and removal of infrastructure flood debris, such as, benches, tables, outhouses, concrete, culverts, and asphalt following a hurricane from a stream reach and adjacent wetland area; and

(iii) Stabilizing stream banks and associated stabilization structures to reduce erosion through bioengineering techniques following a flood event, including the use of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geotextiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant

communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).

DOE announced adoption of this categorical exclusion on July 23, 2024 (89 FR 59726).

USFS (e)(20): Activities that restore, rehabilitate, or stabilize lands occupied by roads and trails, including unauthorized roads and trails and National Forest System roads and National Forest System trails, to a more natural condition that may include removing, replacing, or modifying drainage structures and ditches, reestablishing vegetation, reshaping natural contours and slopes, reestablishing drainage-ways, or other activities that would restore site productivity and reduce environmental impacts. Examples include but are not limited to:

(i) Decommissioning a road to a more natural state by restoring natural contours and removing construction fills, loosening compacted soils, revegetating the roadbed and removing ditches and culverts to reestablish natural drainage patterns;

(ii) Restoring a trail to a natural state by reestablishing natural drainage patterns, stabilizing slopes, reestablishing vegetation, and installing water bars; and

(iii) Installing boulders, logs, and berms on a road segment to promote naturally regenerated grass, shrub, and tree growth.

DOE announced adoption of this categorical exclusion on July 23, 2024 (89 FR 59726).

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